Legislative Council

Wednesday, 12 November 2003

THE PRESIDENT (Hon John Cowdell) took the Chair at 10.00 am, and read prayers.

WIRELESS HILL PARK, LAND EXCISION

Petition

Hon Giz Watson presented the following petition bearing the signatures of 55 persons -

> To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> WE, the undersigned, all being residents of Western Australia, are opposed to the proposal to excise land from Reserve A28913 (Wireless Hill Park) Ardross and rezone it from Parks and Recreation to Residential.
>
> Your petitioners therefore humbly pray that the Legislative Council will reject the proposed excision.
>
> Your petitioners as in duty bound will ever pray.

[See paper No 1656.]

ACTS AMENDMENT AND REPEAL (COMPETITION POLICY) BILL 2002

Committee

Resumed from 11 November. The Chairman of Committees (Hon George Cash) in the Chair; Hon Nick Griffiths (Minister for Housing and Works) in charge of the Bill.

Progress was reported after clause 34 had been agreed to.

Clauses 35 to 38 put and passed.

Clause 39: The Act amended -

Hon DEE MARGETTS: As with previous parts of the Bill, I will make some initial remarks on clause 39 and speak generally on some of the following clauses. As with a number of aspects of national competition policy, the Bill is seeking to alter the composition of the Office of the Surveyor General. It is very clear from the public inquiries that I have attended that few issues create more heat and controversy in the community than the relative value of land. The issue arises with clearing of land or acquisition of land by government, in some cases for private projects under state agreement Acts in which there is a compulsory acquisition clause. Whether or not the clause is implemented, the Government has the ability to acquire land for a private purpose and therefore can apply pressure.

The Office of the Surveyor General exists for very good reasons. It is necessary for people to believe that there is a professional, independent source within government from which to obtain evaluations of property. That is not to say that individuals do no have the ability to check the evaluation made by the Office of the Surveyor General against the evaluation of private surveyors, which is more and more the case. I will deal with the question of valuation later.

In a general sense one of the themes of national competition policy is to remove the requirement for professionals to be qualified. I have believed right from the beginning that it is an interesting concept that it is considered anticompetitive to have to have certain qualifications in order to put one's name on a shingle to practise as a professional. The general concept is that if a person says that he or she is a surveyor, a valuer or even a brain surgeon, although I suppose there are limits, then that is the case. We must be very careful about the concept that having a professional requirement for a person to practise in a particular area is anticompetitive. I am reminded of the tragic events of the 1997 Maccabean Games in Israel, when a bridge collapsed, killing four Australian athletes. As it turned out, if I recall correctly, in order to reduce the cost of providing the bridge, the people responsible for putting it together were not required to be qualified structural engineers. In the case of surveyors or valuers, we must be wary of the push that is common in national competition policy to remove the requirement for people to be qualified. The Surveyor General will not necessarily have to be a surveyor; the department could be headed by a Master of Business Administration. Perhaps the office will not be called the Surveyor General any more. There are issues about the professionalism of those departments, upon which we have depended for so long for independent advice, not only to government but also to the community at large.

The Greens (WA) do not support the removal of the requirement for fully qualified professionals to head these areas, or the removal of the requirement that those people should be of good fame and character. Relying on whether a person has had a prosecution is not sufficient in such an important issue as property, whether it be surveying or valuing. It is reasonable that the reputation of a person be taken into consideration if that person is to be appointed. Few areas excite more concern than property boundaries or values. Whether in the case of a surveyor or valuer, we should not go along

with an ideological preference. The Industries Assistance Commission flagged professionals as a target for anticompetitive behaviour, which is one way of undermining the confidence that many people in the community have in the quality of public works and so on. If we end up putting MBAs in charge of every element of government, we are headed in the wrong direction, because we may find that the lack of true professionalism means that we simply make the same mistakes again and again in various departments.

The Greens (WA) will not be supporting changes to the Licensed Surveyors Act 1909 that remove the requirement that the Surveyor General must be of good reputation and a qualified surveyor. It is a bad direction and was never justified. It was a preference of the Industries Assistance Commission. The corporate interests that put together the original report in the late 1980s decided that they did not like this provision, but it was never actually justified. They never actually said why some sort of entry requirement for people to practise as professionals was a bad thing. Those professionals are the kinds of people we should be able to trust to deliver services in the community, especially when that service is provided by an arm of government.

Further consideration of the clause postponed until after consideration of clause 41, on motion by Hon Nick Griffiths (Minister for Housing and Works).

Clause 40: Section 4 amended, and transitional -

Hon NORMAN MOORE: I have listened with interest to the remarks of Hon Dee Margetts, and I have some sympathy for the view she expressed. Under amendments proposed to the Licensed Surveyors Act 1909, as she has pointed out, it would no longer be a requirement for the chairman to be a licensed surveyor. A similar situation exists in relation to part 14 of the Bill, which deals with amendments to the Valuation of Land Act 1978. Under those proposed amendments, the Valuer General would no longer need to be a valuer. I can understand that these are administrative matters, but I am not altogether convinced that they are competition policy matters. I am open to persuasion by the minister that these are important issues that need to be agreed to, and that they somehow relate to competition policy. I mentioned these issues during my second reading contribution, particularly in relation to the Valuation of Land Act. I am interested in hearing the Government's explanation of the reasoning behind these measure before I decide whether the Liberal Party will support the Greens (WA) in opposing these two clauses.

Hon NICK GRIFFITHS: What is proposed in these clauses arose out of the review of national competition policy. The thrust of what is being sought to be achieved here is consumer representation on the board. National competition policy has, as its primary objective, benefit for consumers. The particular issue here is whether the Surveyor General, as is currently the case, or some other member of the board should be chairman. The link to competition policy, and the reason for the option of having someone other than the Surveyor General as chairman, is to allow the minister to determine the composition of the board so that consumers' interests can be more appropriately dealt with; that is, it will leave open the option of not necessarily having the board dominated by the profession.

Hon PETER FOSS: I do not think this is a matter of consumer interest; it is a matter of administrative convenience. Competition policy is intended to benefit consumers, but it works on the premise that competition benefits consumers; it is not some sort of consumer protection measure. If the Government wants to put a consumer representative on the board, that is fine. That is an administrative policy decision of the minister's Government.

Hon Nick Griffiths: And yours.

Hon PETER FOSS: However, it is his Government's decision. If the Government does not want the chairman of the board to be the Surveyor General, again, that is an administrative decision. The fact that it is in a competition policy Bill does not mean that it is competition policy; nor does it mean that the review came up with this for competition policy reasons. It does not seem to me to affect any of the basic problems. The only question that needs to be asked is: should people other than valuers be able to value? If the Government does that, it will take away -

Hon Nick Griffiths: This is about the Surveyor General.

Hon PETER FOSS: I understand, but if the minister wants to talk about surveyors and competition policy, the question that must be asked is: should people other than surveyors be restricted from carrying out that work? Should there be any obstacle to entering that profession? I can fully understand that, but changing the qualifications of the chairman and who the chairman will be has nothing to do with competition policy. It is something the Government can come to as a policy decision, but I do not think it has anything to do with competition policy.

Hon Nick Griffiths: I understand your point.

Hon NORMAN MOORE: It seems that, as we go through this Bill, more and more of it has less and less to do with competition policy. I think Hon Peter Foss's explanation on this occasion was quite appropriate. I do not have a problem with the Government seeking to change the administration of the board for the time being. However, I am very interested to see how it transpires in due course, assuming that the Chamber agrees to this clause and that a consumer representative chairs the board, which is an interesting scenario that I think is possible under this proposal.

Hon Nick Griffiths: It is possible.

Hon NORMAN MOORE: I am not sure that is necessarily in the best interests of surveying in Western Australia, and similarly with valuations when we come to that down the track. However, the Opposition is prepared to agree to this clause at this point, but I will look to see how it transpires in practice, and something might need to be done in due course about that.

Hon DEE MARGETTS: I wish it were accurate to say that more and more of the Bill represents less and less of competition policy. However, it is probably more accurate to say that we are discovering that more and more of competition policy relates less and less to benefits to the community. That has been the case all along. Some changes to the Trade Practices Act emerged from the targeting of professionals in the Industries Assistance Commission report, which was commissioned by Paul Keating in the late 1980s and which was picked up by Hilmer and shoved in the mix. The problem is that whether this is in the public interest has never been questioned. As I have mentioned before, a lot of the basic assumptions behind the agreements that, as Hon Peter Foss has often mentioned, were part of the national competition policy agreement were shoved into a fully drafted report that the various State Governments were asked to sign, and then the tranche payments were upped until agreement was, in effect, purchased. They were not necessarily ever justified, and neither was the targeting of professionals. It may well be true that the assumptions that professionals' standards were anticompetitive were never justified. It was never taken further to see what the impact was on the community and on community welfare and benefits. Having identified at the beginning that somehow or other professional standards were an impediment to investment, that was the way it rolled out.

I am pleased that some of these issues are being questioned now, but I wish they had been questioned seven or eight years ago. However, I am pleased that these debates are at least beginning to happen. I hope that, if these changes are found to be not in the public interest, there is some means by which the Government can mount a case or perhaps use this as part of a case to mount an absolute and severe reform of the way national competition policy operates to ensure that there can be reversals when there are clear indications that some of the changes have gone in the wrong direction. When we found, for instance, that consumers ended up paying more or had less choice, or that industries were distinctly less competitive than they were before, nearly all the assumptions failed to materialise. There should be some means by which we can review and change those measures. State Governments must get together in COAG to make agreements in that area.

Given that no real major changes were made after the reviews in the late 1990s, except in some cases in the wrong direction, there was a very minor agreement that the social impacts of changes should be looked at more carefully, but there is no indication that that happened to any great extent except marginally. There needs to be some method of testing what we hope to achieve with the Licensed Surveyors Act and the Valuation of Land Act, when we get to that. That has been the failure all along. Clear means by which we hoped to achieve these benefits for consumers, these benefits for the public interest and so on were never built in. Because the reversal of the onus of proof is in the hands of consumers of surveys and valuations, the average person would not be able to mount a case. If surveyors mounted a case, people would say that they would say that. I understand that there are on the record cases that were mounted by the Surveyor General and the Valuer General. I hope the Government will at least indicate that, if changes were made for no other reason except the pressure from national competition policy, it is prepared to revisit some of those decisions to determine whether they were made in the public interest. At the very least some goals should have been set outlining what we hoped to achieve and that there would be a review period. There would be some sort of in-built review for any other major change. However, all along, any reviews by the federal Government had to be gained by kicking and screaming. I am not sure there ever has been a major review of the impacts of national competition policy in Western Australia. Maybe that is one of the things the Government must agree to as well; that is, there should be some sort of independent review or test to see what has happened in each instance of reform, repeal and so on. We should try to come to an agreement about what we in this State think should be the public interest outcomes and decide whether they have been met. If the changes have gone in the other direction, and rather than taking the view of many economic rationalists that that means we have not deregulated enough, there needs to be a very serious reconsideration of the directions in which they have gone. There needs to be some debate within the COAG process, instead of everybody getting beaten up because it is considered that they have not done things the way the National Competition Council, the senior COAG officials who are supervising the National Competition Council or Treasury may have wanted. Basically, there needs to be an open, accountable and democratic process of deciding what is in the public interest in a lot of these areas and whether it has been met. In this case, given the numbers, I can see that that will happen. However, I would like some commitment from the Government that it would be prepared to mount the case at a federal level that there should be some ability to reverse any decisions that at a later date are found, in effect, to not be in the public interest.

Hon NICK GRIFFITHS: I thank the honourable member for her comments. I will refer them to the Treasurer for his consideration.

The CHAIRMAN: The question is that clause 40 do stand as printed.

Hon DEE MARGETTS: I apologise, Mr Chairman. Part of clause 40 involves the deletion of the words "and is of good fame and character" and the insertion of a series of criteria about a person's criminal record. The clause seeks to insert the following paragraphs -

(aa) has not, during the period of 10 years before making the application, been convicted of, or served any part of a term of imprisonment for, an offence in Western Australia or elsewhere involving fraud or dishonesty;

(ab) is not bound in relation to an offence referred to in paragraph (aa) by a bail undertaking;

(ac) does not have a charge pending in relation to an offence referred to in paragraph (aa);

I am not sure whether that actually meets the recommendations of the national competition policy review. The May 2001 report that I previously mentioned, headed "Progress Report: Implementing National Competition Policy in Western Australia", recommended at page 86 -

> a clearer definition of what constitutes good fame and character, with particular regard to any previous criminal record including business fraud and/or dishonest business practices;

I am not sure whether the amendment in the Bill actually meets that recommendation, given that it mentions only matters that occur within the preceding 10 years. A person aged 50 may have been involved in or convicted of fraud 10 or 15 years previously. That would be a serious consideration when determining a person's good fame and character. Many areas of reputation are perhaps even more important than whether a person has a criminal record for a specific crime that was committed within the previous 10 years or is currently charged with an offence. I am sorry that I mentioned this matter in the middle of the question on the clause being put, but I think a number of us are suffering, after having had less sleep than we would have liked, given the weather last night.

Hon Simon O'Brien: We are suffering from other stimuli as well.

Hon DEE MARGETTS: I wish.

Hon Nick Griffiths: I do not think either member should elaborate.

Hon DEE MARGETTS: No. I would like the minister to explain why the definition is much narrower than was provided in the recommendations. There is still talk about a definition, but the report recommended that any criminal record or dishonest business practices be considered. Dishonest business practices do not necessarily relate to a criminal record. However, nothing in this amendment indicates that any previous dishonest business practices count as part of this definition of good fame and character. It seems that we have actually watered down these provisions under the Licensed Surveyors Act, and perhaps dangerously so.

Hon NICK GRIFFITHS: The words proposed to be deleted, namely, "of good fame and character", are considered to be vague. They are overly discretionary. That essentially was the finding of the NCP review. Subclause (6)(b) at the top of page 23 of the Bill sets out criteria that enable the proposal in the NCP review to be carried out. The Government's view is that it does the job.

[Quorum formed.]

Clause put and passed.

Clause 41 put and passed.

Postponed clause 39 put and passed.

Clause 42 put and passed.

Clause 43: Section 11A repealed -

Hon NICK GRIFFITHS: I move -

Page 24, line 6 - To delete the line and insert instead -

(1) Section 11A(1) is repealed and the following subsection is inserted instead -

"

(1) The Authority may, by notices erected in such places in the public market and in such other manner as the Authority may determine, indicate -

(a) the periods during which the public market is open for business and the produce that may be traded during those periods; and

(b) the periods (other than the periods referred to in paragraph (a)) during which, and the purposes in relation to which, a specified class of person is, or specified classes of persons are, permitted to enter, or prohibited from entering, the public market.

"

(2) Section 11A(2) is repealed.

(3) Section 11A(3) is amended by deleting ", without the permission of the Authority,".

(4) Section 11A(4) is repealed.

(5) Section 11A(5) is amended by deleting the passage from and including paragraph (a) to the end of the subsection and inserting instead -

"

(a) the public market was open for trading in the produce specified in the certificate; or

(b) the public market was not open for business and the purpose in relation to which the person specified in the certificate was permitted to enter, or prohibited from entering, the public market,

is evidence of those facts.

"

I note the presence of the Minister for Agriculture, Forestry and Fisheries in the Chamber. This amendment arises from the good work carried out by the Minister for Agriculture, who took up the concerns of the stakeholders and was able to reach a resolution of the issue, subject, of course, to the wishes of the Committee. He did so in such a way that the Act will deal with competition issues but at the same time satisfy the concerns of those interested in the operations of the Perth market. I refer to the report of the Standing Committee on Uniform Legislation and General Purposes dealing with this matter. The Committee will be aware of the discussion that commenced on page 18 of the report and followed through to page 20 at paragraph 6.53. Reference is made in the report to the committee being aware that negotiations were occurring between the Minister for Agriculture and the Treasurer on the proposed repeal of sections 11A and 11B of the Act by clauses 43 and 44 of the Bill. The amendment that I have moved deals with clause 43. Sections 11A and 11B provide the Perth Market Authority with the potential to restrict competition by discriminating between persons and produce. Clause 43, as contained in the Bill, repeals section 11A and removes those powers of the Perth Market Authority. Clause 44 repeals the related section - section 11B - of the Act. Since the introduction of the Bill, concerned groups, namely, the market authority, the Chamber of Fruit and Vegetable Industries in Western Australia and the Carnarvon Growers Association - again, the Minister for Agriculture is listening to me, so I will make sure I get this right - have lobbied the minister with a view to retaining the status quo. It was put to the minister that the repeal of the sections would detract from the efficient and safe operation of the market and provide certain buyers with an unfair competitive advantage, as they could enter the market before official trading hours. My understanding is that those issues were raised with the standing committee. The Minister for Agriculture took the matter up on behalf of the industry - in particular those stakeholders I have referred to - and what is before the committee is a compromise that seeks to balance the need for the authority to set market times with the removal of the unlimited power of the authority to discriminate between persons and produce. The current section 11A(2) provides a very broad power on the part of the authority. It states -

> A notice referred to in subsection (1) may distinguish between persons or classes of persons, produce or kinds of produce and purposes or classes of purposes as the Authority thinks fit.

As initially proposed, that section would be removed in its entirety. It is proposed in the amendment to repeal section 11A(2) as moved. However, it is the Government's view that the wording of new section 11A(1) will provide a balance in the interests of the stakeholders and those involved in the industry and at the same time deal with competition issues to a degree that the National Competition Council will be satisfied.

Hon NORMAN MOORE: The minister has given a good explanation of the circumstances surrounding this new amendment. The Opposition expressed some concern about this in the other House and also during the second reading debate. I have consulted with the Perth Market Authority, and it is satisfied with the proposed amendments. They meet its requirements. Having been a member of a parliamentary committee that investigated it on one occasion, I might say that it is an unusual organisation. The circumstances surrounding the way in which the market operates are interesting and intriguing, to say the least. I never really tried to understand it because I did not have that long to live. However, I accept that this amendment - apparently negotiated by the Minister for Agriculture - meets the requirements of the Perth Market Authority and may, as the Minister for Housing and Works suggests, meet the requirements of national competition policy. We are happy to support the amendment.

Amendment put and passed.

Hon DEE MARGETTS: I congratulate the Government on this occasion for reaching a negotiated outcome. I am not sure whether I can ask the Government if the National Competition Council is happy with this legislation. One of the questions that springs to mind throughout this debate is that some magic words occurred in the 2000 amendments to the COAG agreements on national competition policy; that is, the States have the ability to make their own assessments within a range of acceptable outcomes. The question that now springs to mind is whether we have access to this range of acceptable outcomes. What are they? Do we have them? We are floating around in the dark on a number of these

issues. Can the minister advise whether there is a list of acceptable outcomes that we can look at to see why some of these decisions are being made and why some of them are acceptable to the National Competition Council - as this one appears to have been - and others are not, and where we can find the list of acceptable outcomes that allow this level of democratic decision making - a teeny, teeny level of local democracy - within a process which is clearly undemocratic? Is that list of acceptable outcomes available to the public and the Government; otherwise, how can we find out how the council is making its decisions?

Hon NICK GRIFFITHS: There is no list as such. I am advised that there is an assessment report, which has not yet been made public. I am looking forward to that assessment report being made public.

Hon DEE MARGETTS: I thank the minister for that response. Has the State Government ever asked the National Competition Council, considering this was one of the amendments? There was all this stuff about the States being the decision makers, which was part of the 2000 amendments. It was confirmed that the States are the decision makers on the assessment of national competition policy. The issue about the range of acceptable outcomes is vitally important. I did not see in that list of amendments that that range of acceptable outcomes was part of that confidentiality agreement. My understanding of the confidentiality agreement is that it was the view of the National Competition Council about a specific review. However, it seems to me that, theoretically, this so-called range of acceptable outcomes should not change from one decision to another. Obviously there are negotiated positions. However, it would not be unreasonable for the Government to ask the National Competition Council to provide the Government, the Parliament and the community with these guidelines. Surely it is rather bizarre if there are secret guidelines for a range of acceptable outcomes.

Hon NICK GRIFFITHS: I note Hon Dee Margetts' observations. The assessment report is provided by the National Competition Council to the federal Treasurer. I understand that after the federal Treasurer makes his decisions, the assessment report should be made public. With regard to secrecy, I note the issues raised about confidentiality that are a matter of history and that the honourable member has raised before, in the context of both this debate and a Bill dealt with earlier by the House.

Hon DEE MARGETTS: I thank the minister for that response. I suppose the next question is whether the National Competition Council has provided a clear list of this range of acceptable outcomes to the State Government. Given that the minister said the Government considers that somehow it is being treated as part of the secrecy aspects of the National Competition Council assessment process - I do not think that - has the National Competition Council provided a clear list of guidelines for this range of acceptable outcomes to assist the State Government with its provisions? Given that rural marketing arrangements are generally not favoured, does this mean that in the end some arrangements - for instance, potato marketing - will continue to be unacceptable, regardless of the public interest? The Potato Marketing Board may fall outside the list of "baddies" even though the public interest test may indicate one thing or another. It is good that we are making a decision about the Perth market provisions if that is in the best interests of the industry and the community. Is there a mindset that certain types of arrangements will always be rejected by the National Competition Council, regardless of the strength of the argument or what the public interest test reveals from the State Government's point of view?

Hon NICK GRIFFITHS: I understand the member's point. However, I reiterate that there is no list; an assessment report should be made public when the federal Treasurer makes his decision. Like Hon Dee Margetts, I am interested in that report being made public.

Clause 43, as amended, put and passed.

Clauses 44 to 45 put and passed.

Clause 46: The Act amended -

Hon DEE MARGETTS: I note that section 3(2) of the Sandalwood Act is recommended for repeal in the May 2001 progress report "Implementing National Competition Policy in Western Australia", which states in part -

> The report considers the introduction of longer term and transferable licences to reduce barriers to entry and to also promote stewardship of the resource and investment by licences.

This clause simply repeals an existing provision. Will the minister explain how the promotion of stewardship of the resource and investment by licences is to be now managed? What alternatives have been found? In effect they are alternative restrictions that will fulfil the regulatory objective of achieving sustainable rates and resource use. I think that indicates some recognition that the restriction was to fulfil the regulatory objective of achieving sustainable rates of resource use. Will the minister explain clearly what other measures the Government will include to achieve the regulatory objectives - the reason this measure was included in the first place?

Hon NICK GRIFFITHS: Like a number of clauses, this clause is at the beginning of a part of this Bill. There is only one issue concerning part 12; therefore, it seems there is no need to move to postpone the clause. The essence of part 12 is contained in clause 47. Clause 46 is the introduction. My comments relate to clause 47 as, I think, did Hon Dee Margetts' observations. Clause 47 repeals section 3(2), which states -

> Licenses shall not be granted under subsection (1)(b) to authorise the pulling or removal of sandalwood in any quantity exceeding in the aggregate 10% of the total quantity as determined for the time being by Order in Council under section 2.

Section 2 provides -

> The Governor may from time to time, by Order in Council, limit and restrict the quantity of sandalwood, other than sandalwood grown on a plantation, that may be pulled or removed from Crown land and alienated land during a period . . .

Subsection (1)(b), to which I referred earlier, refers to a person not being able to pull or remove sandalwood unless that person has authority. Those sections to which I referred in my opening comments are not considered to prevent overexploitation of the private land sandalwood resource. The 10 per cent restriction is arbitrary, and the view is that it tends to encourage harvesting at that level. Approximately 1.5 per cent of the total resource is located on private land; therefore, it is considered there is a propensity for overexploitation. Under the current legislation, the 10 per cent restriction is the only restriction applied to the private land sandalwood harvest. In practice, any size sandalwood may be pulled from private land with the only limit being the final tonnage. By changing the law, it is anticipated that matters will be better dealt with than through current arrangements. Clause 47 is anticipated to have the effect of allowing licences for the pulling of sandalwood on private land to be granted in accordance with the State's overall environmental laws and policy rather than according to whether the sandalwood is located on crown or private land. The sustainability objectives can, in the view of the Government, be better achieved by the application of the provisions in the Act that remain.

Hon DEE MARGETTS: Page 137 of the May 2001 report states that the quantity of sandalwood that can be harvested sustainably from private land should be researched and the quota set accordingly. Is the minister able to provide the Committee with any reassurance of what research has been done and whether a system of quotas has been organised or is set to go? This provision can be replaced by doing things in a different way. We know that the upper limit of the input restrictions on the western rock lobster industry was removed and that, sometime in the future, it will move towards a quota. That is leaving people in limbo. Will the minister reassure me that we are not doing exactly the same thing by removing a barrier? Under "Public Interest Assessment" at page 137 of the report, reference is made to the introduction of longer-term and transferable licences to reduce barriers to entry. I presume that will arise by way of regulation and that those regulations will be disallowable. Can the minister give the Committee some indication of when we are likely to see regulations controlling longer-term and transferable licences? What proof does the Government have that longer-term and transferable licences have been found to equate to greater and better management of a scarce resource? I mention this because I understand that a lot of people have tried planting sandalwood for land care and good management reasons. They also want to have something of value on their property when they sell it or pass it on. There has been a considerable level of failure among people who have attempted to plant sandalwood. Has the approach taken with this amendment been based on the assumption that there will be more successful plantings of sandalwood than has been the case? I would be delighted to hear of better levels of success. Are we not taking something out without being prepared to replace it with a better management system? We are putting in regulations that will make licences longer and more transferable and make it easier for people to get into the business of harvesting sandalwood. What do we have in its place? Is the Government moving towards quotas; and, if so, when will we see them?

Hon NICK GRIFFITHS: In my earlier comments I sought to point out how the removal of a provision will give rise to a more sustainable sandalwood harvesting regime. I refer the member to those comments in part answer to some of the issues she has raised. The competition issue is to have the same licensing regime apply to both private and public land for sandalwood harvesting. The licensing regime - the member used the word "quota" - that will apply will have regard to proper sustainability. I am advised that the Department of Conservation and Land Management has undertaken research. The rationale behind what is proposed arises clearly because of competition considerations. I have already mentioned those. This is a very good public policy advance that will permit more sustainable practices to occur.

Hon DEE MARGETTS: With all due respect, the fact that the minister says it will lead to a more sustainable outcome does not explain how that will happen or what will replace it. It does not necessarily mean it will happen. The Greens (WA) oppose the changes made by this clause.

Clause put and passed.

Clause 47 put and passed.

Clause 48: The Act amended -

Hon DEE MARGETTS: Is the minister able to briefly outline the public interest reasons for these changes?

Hon NICK GRIFFITHS: The State Supply Commission Act enables the State Supply Commission to buy and sell assets and services on behalf of the State. Government businesses have not been required to pay stamp duty on property transactions. That is considered to be contrary to competition policy principles aimed at ensuring that the commercial activities of government are treated in the same manner as the private sector with the application of taxation. This is an

issue of competitive neutrality that the member and I made reference to earlier. Advice from the State Supply Commission is to the effect that the impact of stamp duty will be small. This provision will have very little impact on the operations of government. However, it is a matter of putting in place the principle of competitive neutrality. That is why it is in this Bill. It adds weight to the various measures to which the Committee has already agreed.

Hon DEE MARGETTS: The restrictions mentioned on page 441 of the May 2000 review include the conferral of competitive advantages or disadvantages on public authorities through having access to or being forced to comply with government purchasing arrangements. If I have understood that correctly, it means that it is a bad thing for public authorities to have access to a better or cheaper way of purchasing goods and services through government purchasing arrangements. I am interested to find out exactly how many government sectors utilise the State Supply Commission and what the advantages are. If we enforce competitive neutrality, every government entity that uses the services of the State Supply Commission will have to pay more. In effect that means - especially with the growing love affair with user-pay principles for the provision of government services - extra costs or cost shifting to the consumer. As I mentioned, competitive neutrality has never been tested. The average taxpayer will probably say it is a good idea if Governments have means of reducing the costs of providing services to taxpayers. Once again, a State Labor Government is willingly making changes that it knows will increase the costs of supplying goods and services to areas of government because it will somehow make the Government more open to investment and takeover by the private sector. Is the Government suggesting that that is the Labor Party's policy?

Hon NICK GRIFFITHS: We have heard the debate about competitive neutrality before. The Government's view is that competitive neutrality positions will allow the State to operate more efficiently overall. That will bring down the cost to the Government and the community in general. The money that is paid by way of stamp duty will end up in the consolidated fund, so it will not be a cost to the community. What is being done will allow private enterprise to compete in appropriate circumstances and that is not giving government enterprises an unfair advantage.

Hon DEE MARGETTS: The people who use the services provided by those who get the advantage of cheaper supply will be disadvantaged. If the Government enforces an artificial increase in the price of supply simply to make it easier for private operators to come in and compete to supply goods and services to government entities, in effect it will make those goods and services more expensive, which otherwise could not be done. Basically, the Government is saying that if someone can provide goods and services cheaper than the private sector, it will have to add on costs that will make them more expensive so that the private operator can put in its bid to provide those goods and services. In the end, those people using government services - often they are on the lowest incomes - will have to pay more. It may be considered an accounting exercise because the State Supply Commission will pay money into general revenue. However, as more and more government trading entities of various kinds are required to show some sort of return, they will have to charge more if they are using a user-pays system for the services they are providing.

Clause put and passed.

Clause 49 put and passed.

Clause 50: The Act amended -

Hon DEE MARGETTS: We have had this type of debate largely in relation to the Surveyor General. However, the argument becomes stronger when it relates to the valuation of land. Few people in the wider community would think that the Surveyor General should be replaced with someone who may not be a fully qualified surveyor. I have a great deal of respect for the professionalism of the Valuer General in Western Australia. As I mentioned, few issues cause more heat within the community than the value of land, especially when Governments are involved in activities that impact on the value of land. Much of the debate on native title was about people's perceptions of the impact of it on the value of land. The heat of the debates on clearing and environmental protection largely focused on people's perceptions of the value of land. When it comes to new projects and compulsory acquisitions, there is a huge amount of controversy about how Governments acquire the land they need or the impact of a project on the land surrounding it - whether the project adds to or reduces the perceived value of that land. There are also grave concerns about those in the position of valuer or the Valuer General going into and out of the commercial sector, because inevitably there will be conflicts of interest. We saw that happen in the Environmental Protection Authority when the previous Government pushed to bring in more people who had commercial interests. Inevitably there were serious conflicts because those people were being paid by proponents to argue why there was insignificant environmental harm at the same time that they were involved in discussions within the EPA about whether there were merits in the arguments of environmental harm. If we remove the professionalism required of the Valuer General we could see a repeat of that situation. It is a bit like having an Attorney General who is not a lawyer. I have grave concerns about this issue. The Greens (WA) oppose these amendments.

Clause put and passed.

Clause 51: Section 6 amended, and transitional -

Hon NORMAN MOORE: The comments made by Hon Dee Margetts during debate on the previous clause relate mainly to this clause. I have some sympathy for her views. I am not totally persuaded to the view that the Valuer General can be a generalist. I believe that such a person ought to be a valuer. Again, in the same way that we discussed

the Surveyor General's position earlier, this is an administrative decision and one that we need to look at in the fullness of time, as Sir Humphrey would say, to determine whether such a change will be beneficial. I would be concerned if some of the matters raised by Hon Dee Margetts were to come to fruition and we were to find that there were conflicts of interest and that a person became the Valuer General who perhaps should not be in that role. I will look forward with interest to see what will happen when this clause comes into effect.

Hon NICK GRIFFITHS: I too would be very concerned if what Hon Dee Margetts has said were to come to fruition. I note the observations of Hon Simon O'Brien and Hon Norman Moore. I will refer specifically to what this clause is about. This clause is about repealing section 6(3) of the Valuation of Land Act, which reads -

> A person appointed Valuer-General shall be a person who is qualified for membership of the Australian Institute of Valuers (Incorporated) as a Fellow or Associate of that Institute.

That may preclude from the position people who are well suited in all respects for the job but do not qualify for membership of the institute. I note the point made about professional associations. The Valuer General presides over the Office of Valuer General, which is now located in the Department of Land Information. The Valuer General, in performing his activities in that office, requires broader skills than simply those required for membership or affiliation of the Australian Institute of Valuers. Again, I refer the Committee to the words that are proposed to be inserted, namely -

> A person appointed Valuer-General shall be a person who has, in the opinion of the Minister, -

That is the safeguard -

> the qualifications and experience appropriate to the exercise of the powers, and the performance of the duties and functions, conferred or imposed upon the Valuer-General by or under this Act.

The minister of the day will have a duty, and that minister is answerable to the Parliament. To conclude, I note the observations made by the members who have spoken.

Hon DEE MARGETTS: I have heard what the minister has said, but I must confess that I am not convinced by his argument. What the minister has said is like saying that the Attorney General can be someone who has worked in and knows quite a lot about the law. The person who is chosen to fill the position of Valuer General should be more than just a qualified valuer. Recently, the Standing Committee on Public Administration and Finance held a public hearing at which the Valuer General gave evidence to assist the committee in its report on land clearing issues. The range of information that was given by the Valuer General, and the depth of understanding and professionalism of the Valuer General, were extremely impressive. I would hate to see public entities lose that level of professionalism simply because of a desire to meet some loopy concept of contestability that somehow or other it is an impediment to competition to have someone who is fully professional in such an important position as Valuer General. As I say, it is the equivalent of saying that the Attorney General can be someone who has worked in and knows quite a lot about the law.

I urge the Legislative Council to reject any reduction in the qualifications and professionalism required of the Valuer General, in the public interest.

Clause put and a division taken with the following result -

Ayes (20)

Hon Alan Cadby	Hon Sue Ellery	Hon Ray Halligan	Hon Barbara Scott
Hon George Cash	Hon Adele Farina	Hon Robyn McSweeney	Hon Bill Stretch
Hon Kim Chance	Hon Jon Ford	Hon Norman Moore	Hon Derrick Tomlinson
Hon Bruce Donaldson	Hon Peter Foss	Hon Simon O'Brien	Hon Ken Travers
Hon Kate Doust	Hon Nick Griffiths	Hon Ljiljanna Ravlich	Hon Ed Dermer *(Teller)*

Noes (6)

Hon Frank Hough	Hon Jim Scott	Hon Giz Watson	Hon Robin Chapple *(Teller)*
Hon Dee Margetts	Hon Christine Sharp		

Clause thus passed.

Clause 52: Section 14 amended -

Hon DEE MARGETTS: I do not intend to divide on the other clauses. The Greens (WA) have put their position on these changes. It is clearly understood that we will be opposing the rest of the amendments to this section of the Valuation of Land Act.

Clause 52 put and passed.

Clause 53: Section 16A inserted -

Hon NORMAN MOORE: This clause appears very familiar to me. I have a sneaking suspicion that it is a standard clause in a stack of different Acts of Parliament that gives the minister access to information. Will the minister handling the Bill inform me whether this is a standard clause that for some reason was not included in the Valuation of Land Act and the opportunity has now been taken to do so?

Hon NICK GRIFFITHS: The advice to me is that it is not understood to be a standard clause. However, on my reading of it, it clarifies the situation as set out in the Act as it is now.

Hon Norman Moore: It has nothing to do with competition policy.

Hon NICK GRIFFITHS: The honourable member makes the point that it has nothing to do with competition policy. On my reading of it, I must say that I agree with him.

Clause put and passed.

Clause 54 put and passed.

Clause 55: The Act amended -

Hon DEE MARGETTS: I ask the minister to outline briefly the public interest reason for these proposed amendments to the Western Australian Meat Industry Authority Act?

Hon NICK GRIFFITHS: Clause 56 proposes to amend the Act to remove a potential conflict of interest that would occur when the Western Australian Meat Industry Authority is both the regulator and the operator of saleyard facilities. The amendments reinforce the primary purpose of the authority as a regulator of abattoirs and processing works, but not of saleyards. It provides for the authority to operate the Midland saleyard or a replacement for the Midland saleyard declared by the minister. It provides for the authority to operate any other establishment or undertaking in the meat industry for a specified period, but only if the minister so directs and is satisfied that substantial disruption would occur in the industry unless the authority assumed responsibility for the operation. I would have thought that those powers, having regard to the state of affairs of the Midland saleyards, are very appropriate and very much in the public interest.

Hon NORMAN MOORE: For the record, will the minister let me know what consultation took place with industry groups on this matter, such as the Western Australian Farmers Federation and the Pastoralists and Graziers Association?

Hon NICK GRIFFITHS: I am advised that the Department of Agriculture carried out the review process. Consultation was undertaken as part of that process, including with the two organisations mentioned by the honourable Leader of the Opposition. I will refer the matter to the Minister for Agriculture and invite him to provide the honourable member with the full detail of the consultation that took place.

Hon DEE MARGETTS: Will the minister give us a little more detail on which regulations for the saleyards will be removed and what are the implications of removing those regulations?

Hon NICK GRIFFITHS: When I spoke earlier on this clause I outlined the matters that were being dealt with in the public interest. I again referred to the removal of a potential conflict of interest and I made reference in passing to the circumstances of the Midland saleyards. The implication of the events that will take place is that the minister will have a greater opportunity to carry out his duties with the livestock industry.

Hon DEE MARGETTS: I wish I could say I am much the wiser on the specific details of the clause. The regulations for the saleyards were implemented for a reason. I note one restriction that was suggested should be retained is noted on page 184 of the May 2001 report I quoted from on implementing national competition policy in Western Australia. The report noted that the provision for the regulation of abattoirs and processing works was potentially anticompetitive. It is a relief to see that the outcome of that restriction in the public interest is because of health and safety concerns. Is the minister suggesting that there are no health and safety issues associated with saleyards and the handling of stock in saleyards, or is the Government largely concerned about falling foul of the National Competition Council by both owning and regulating saleyards? Given that regulations apply to a whole range of activities, it appears to be a rather interesting concept that because the Government is involved in an action, it cannot regulate that type of activity because it may be seen to be anticompetitive. Is the minister trying to assure us that there are no health and safety or other issues associated with the regulation of saleyards and that we can do without regulations for saleyards because it is someone's view that that is anticompetitive?

Hon NICK GRIFFITHS: The answer to the first question is no. In answer to the second question, I have pointed out that this provision removes what is considered to be a potential conflict of interest when the authority is both the regulator and the operator of saleyard facilities. I am advised that that is relevant to competition objectives. Even if we did not have competition policy, there is something inappropriate about a body being both the operator and the regulator of activities as important as saleyard activities. I did not think that the Greens (WA) would be a great proponent of self-regulation, but if they have changed their policy, so be it.

Hon DEE MARGETTS: I need to clarify that situation. The Greens (WA) have considerable concerns about the movement towards voluntary codes of practice. The Bill gives no indication that codes of practice will replace the regulation of saleyards. In many areas of government the Government is the provider of the service and the regulator. That is the way government works. Many pieces of legislation are about the provision of services, and regulations are

associated with those services. It is bizarre for the Government to say it has a conflict of interest by making regulations associated with its own activities. That happens all the time. If the problem is that private investors are saying that the Government should not own saleyards, people must understand that certain activities probably would not take place unless the Government had some involvement in saleyards. The idea that regulations must be dropped because the Government is involved in the area of saleyards is bizarre. The regulations governing abattoirs and processing will remain. Once again, this is a case of ideology gone mad, and it could jump up and bite us all in the future.

Clause put and passed.

Clauses 56 to 59 put and passed.

Postponed clause 20: Section 140 repealed -

Resumed from 11 November after the clause had been partly considered.

Hon NICK GRIFFITHS: A number of issues were posed when we last debated these matters. I have been provided with some advice and I am trying to decipher it. I should be the last person to criticise somebody else's handwriting! I understand the issue was about who pays local government rates on privately owned land with sharefarming agreements. It was made clear last night that rates are paid on those properties. Rates are paid on government-owned land that is operated by the Forest Products Commission for the purpose of growing plantations. However, rates are not paid on land owned by the Department of Conservation and Land Management. CALM owns some land that will be transferred to the Forest Products Commission, which owns the trees on the land. Although that land is technically owned by CALM, it is to be transferred to the Forest Products Commission. I am advised that rates are paid on that land.

Hon Norman Moore: Are those rated being paid now or will they be paid in the future?

Hon NICK GRIFFITHS: They are being paid now. I will explain that again. Rates are paid on private land. There is no argument about that. Rates are paid on government land that the Forest Products Commission owns, but rates are not paid on government land owned by CALM. Rates are being paid on some land that is technically owned by CALM because the transfer to the FPC has not yet been resolved. The ownership of those pieces of land is in transition.

Hon NORMAN MOORE: I appreciate the minister's advice on this matter. Will the minister tell me the amount of rates being paid by the different categories of land ownership, which the minister explained, under the private sector, the Forest Products Commission and CALM-owned land that is being transferred to the Forest Products Commission on which rates are paid? How does that relate to CALM-owned land on which rates are not paid? It is a different mix if, for example, 99 per cent of the land is owned by CALM on which no rates are paid and rates are paid on the remaining one per cent.

Hon NICK GRIFFITHS: I regret that I am not in a position to give the specific sums involved. However, I am able to inform the Committee that I am advised that rates are paid where there are plantations in one or the other of the categories I outlined. The important point is that rates are being paid on Forest Product Commission plantations. Also, rates are being paid on CALM land where plantations are being transferred to the Forest Products Commission. In terms of the plantation industry, rates are being paid. Providing specific detail on amounts might require some work. I will endeavour to obtain what information I can. Unfortunately, it could not be obtained in the time since the issues were raised. I am not sure to what extent that information can be provided on the rates on each and every private plantation in Western Australia. I will cause inquiries to be made, and I will inform the Leader of the Opposition of the results of those inquiries.

Hon NORMAN MOORE: This issue surrounding section 140 relates to whether the executive director can give a concession, not whether rates are paid. I am told by the minister that in the context of rates now being paid on government-owned land, this concession has not been accessed by the executive director - is that correct?

Hon NICK GRIFFITHS: My advice is that section 140 has never been used.

Hon DEE MARGETTS: As I understand it, CALM has not been subject to rates until now. Is the minister saying that CALM has been paying rates voluntarily or paying rates equivalents? Is the Forest Products Commission paying rates per se to local government, or has CALM paid that amount and the rates have been paid directly to local government?

Hon NICK GRIFFITHS: I am advised that the advice from the Department of Conservation and Land Management is that it paid the rates, not the rates equivalent. In fact, it is the only thing on which it pays rates.

Hon NORMAN MOORE: I am a little confused now. The minister said earlier that land owned by CALM -

Hon Nick Griffiths: I referred to those areas where rates were paid.

Hon NORMAN MOORE: Let me get this clear in my mind; I am not a genius when it comes to such things. Private landowners pay rates. Rates are not paid on CALM-owned land, but rates are paid on Forest Products Commission land. Rates are being paid on CALM land that is in the process of being transferred to the Forest Products Commission. How much land does CALM continue to hold on which rates are not paid? Will some land be left in that category? This is a competition policy issue in itself. If CALM continues to own land on which it will not pay rates and on which

there are plantations that are not to be transferred to the Forest Products Commission, a competition policy issue arises. Rates are being paid on private land and Forest Products Commission land. Everyone should be treated the same; if not, a competition policy issue arises.

Hon NICK GRIFFITHS: I agree. All CALM land containing plantations - that is, land where the activity is in competition with the private sector - is subject to rates.

Hon NORMAN MOORE: One of the things I admire most about the Minister for Housing and Works is the brevity of his responses. However, as he is so brief, it takes some of us a while to understand what he means. Is he saying that there is no land owned by CALM upon which there are commercial plantations for which it will not be paying rates?

Hon NICK GRIFFITHS: That is the advice I have received as provided by CALM this morning.

Hon Norman Moore: Is there no competition issue, as I raised?

Hon NICK GRIFFITHS: CALM-owned land going to the Forest Products Commission is treated the same as that in the private sector. There is no competition issue.

Hon DEE MARGETTS: I do not wish to delay the Chamber any further than is necessary, but a question arises: why in the advice and briefings given to various members of Parliament were we advised that CALM will now be paying rates, as opposed to saying it has not being paying rates? I know that section 140 has never been used. However, section 140 provides the ability for the head of the Department of Conservation and Land Management to provide approval. The reality I would think is that the Department of Conservation and Land Management's actions are already approved by the head of the department. Therefore, why did the briefing notes lead to the understanding that CALM will be subject to rates and was exempt from rates in the past?

Hon NICK GRIFFITHS: In this and a couple of other contexts - this Bill amends a number of Acts - some criticism has been made about briefings received. I will certainly draw that to the attention of the Treasurer. Hon Dee Margetts has stated that there is a conflict between what I have said and what was put to the member at the briefings. The answer is with the word "is" rather than the word "will". Again, some concern has been raised about what the briefings may have conveyed. I will refer that matter to the Treasurer to ensure, I hope, that these misunderstandings will not occur again.

Postponed clause put and passed.

Postponed clause 21: Section 143 repealed -

Hon NORMAN MOORE: Section 143 of the Conservation and Land Management Act deals with the administration of the Act in the area of Greenbushes state forest. An amendment stands on the supplementary notice paper, albeit to vote against the clause. Will Greens (WA) persist with its proposal, bearing in mind that if we defeat clause 21, section 143 will be left in the Act? It will require the minister responsible for the Act to confer with the minister for mines on events occurring in the Greenbushes state forest. My view is that we should retain the existing law. Therefore, we will be voting against clause 21.

Hon DEE MARGETTS: From the briefings and the explanations given by the minister I have been convinced that section 143 contains an anomaly. I am not convinced there is a public interest reason for opposing the Government's repeal. If Hon Norman Moore had read my second reading contribution, he would know I will not be moving amendments to the provisions of the Bill relating to CALM. I have listened to the arguments. I believe the section contains an anomaly and the public interest would not be served by retaining it.

Hon NORMAN MOORE: I will spare the Chamber an explanation of why there is a public interest element in having the minister for mines involved in decision making in respect of this land. For two days now we have listened to Hon Dee Margetts speak on public interest. Public interest is in the eye of the beholder. What Hon Dee Margetts thinks is public interest, I would not in some cases, and vice versa. I believe the development of the mining industry is in the public interest; however, Hon Dee Margetts would say it is not if it takes place in a state forest. I will not get into an argument with her about that. However, she must understand that she has taken a view about public interest and national competition policy that suits her argument. I am putting to her that there is a public interest argument that suits my argument, but she is rejecting it. She must acknowledge that the whole public interest issue is based upon the politics at the time and people's views about issues. It is a matter of subjectivity and one that could be argued forever on each clause. I do not intend to argue that today, other than to draw to the Chamber's attention the notion that the perception of public interest varies from person to person.

Hon DEE MARGETTS: It would not have escaped the Chamber's notice that the Greens have consistently opposed the creation of Acts such as state agreement Acts and the specific benefits that they provide from the State and its taxpayers to proponents. It is not an issue of public interest as much as an issue of the private interest of one proponent as opposed to another.

Hon Norman Moore: Have you looked at where the benefits of the mining industry go?

Hon DEE MARGETTS: It is not a benefit that is provided to mining in general but to a particular proponent. It therefore singles out one proponent as opposed to another. As I understand it, that is probably illegal under the World

Trade Organisation's definitions of subsidy or special treatment. I have put a pre-emptive motion on the Notice Paper, but I have been convinced that it is an issue of private as opposed to public interest.

Postponed clause put and passed.

Postponed clause 19: The Act amended -

Resumed from 11 November after the clause had been partly considered.

Postponed clause put and passed.

Postponed clause 23: Section 5 amended -

Resumed from 11 November after the clause had been partly considered.

Hon NICK GRIFFITHS: When the Committee was considering this matter last night, a number of questions were raised, and in the light of those questions, the matter was postponed. The Eastern Goldfields Transport Board is an anomaly in that it is the only Government-run bus service in the State. I note that Hon Bruce Donaldson has a very keen interest in this matter. In other regional centres, such as Geraldton, public transport providers are private companies operating under contract to the Public Transport Authority. The private operators are licensed under the Transport Co-ordination Act 1966 and receive subsidies from the transport coordination fund to make good their losses. They receive no exemption from local government rates liability and are not agents of the Crown. Those are the two competition policy issues in this part of the Bill. In the metropolitan area, the Public Transport Authority trades as Transperth. Transperth bus operators are also private contractors licensed under the Transport Co-ordination Act, are not agents of the Crown and are liable for local government rates. The Eastern Goldfields Transport Board is the only provider of public bus transport in Western Australia that is an agent of the Crown with an exemption from local government rates. Yesterday I referred to the amounts involved. I was advised that the envisaged liability to the City of Kalgoorlie-Boulder was in the region of $6 700, and that the subsidy being paid was in the region of $600 000. The amount involved is therefore just over one per cent of the total subsidy. Hon Alan Cadby would probably know the exact amount off the top of his head. I hope that addresses some of the issues raised by honourable members.

Hon NORMAN MOORE: The only query I have on this matter relates to Transwa, which runs bus and rail services in country Western Australia. As I understand it, Transwa is run by the Government and not by the private sector. Government-owned and operated buses operate in country Western Australia. Train services such as the *Prospector*, the *Australind* and the *AvonLink*, are not to my knowledge run by the private sector. Does Transwa have any obligations to pay local government rates, and is it an agent of the Crown?

Hon NICK GRIFFITHS: Transwa is the trading name as I understand it, and I am dealing with buses.

Hon Norman Moore: There are buses and trains. It is public transport.

Hon NICK GRIFFITHS: Public transport has a number of manifestations and I am dealing with buses. My understanding is that there is a significant private element to that, and the private element pays rates. If the Public Transport Authority - Transwa is a trading arm of the Public Transport Authority - is not using private providers, it is exempt from rates. I think that is the issue the Leader of the Opposition was seeking to address. When services are provided by public enterprise without contracting out to private providers, there is an exemption. My understanding and advice is to the effect that, in practice, the only provider of bus operations that is exempt is the provider under discussion - the Eastern Goldfields Transport Board.

Hon NORMAN MOORE: Forgive me if I am confused. I am happy to delete rail from my argument, because the only rail service that is provided in Western Australia is by the Government. There are no private rail operators so there is no competition question between the public and private sector. Let us put the Westrail rail operations to one side and say that no competition policy issues affect it. I return to the country road bus service that is provided by Transwa. Yesterday I made the point that those bus services operate throughout country Western Australia and are in competition with the private sector. The example I gave the minister was South West Coach Lines, which obviously operates from the south west, and Transwa, which also operates from the south west. Both companies are in competition. It is also my understanding that the Transwa buses are operated by a government agency and are not leased or contracted out to the private sector. I may be wrong, but I do not believe that to be the case. My understanding is that whoever owns the Government's transport system - the trains and buses - owns and operates Transwa buses. They are not contracted out in other towns such as Bunbury and Geraldton as the minister has explained is the case. I now need to know whether there is a competition policy issue between Transwa operating country buses and the private sector operating country buses in regional Western Australia.

Hon NICK GRIFFITHS: My advice is that there is not a competition policy issue and that the Transwa arrangements for buses are carried out by private contractors. I note the point made by Hon Norman Moore that his understanding is to the contrary, but my firm advice is that, as I have said, the only bus service in Western Australia that is not paying rates is the Eastern Goldfields Transport Board.

Hon Norman Moore: So Transwa is paying rates, as far as you are concerned?

Hon NICK GRIFFITHS: I do not want to bring rail into it.

Hon Norman Moore: No, Transwa buses.

Hon NICK GRIFFITHS: Yes, that is my firm advice.

Hon Norman Moore: If it is not correct, you will let me know?

Hon NICK GRIFFITHS: I certainly will.

Hon Norman Moore: And you will bring in a new Bill to fix that up?

Hon NICK GRIFFITHS: If my advice is wrong, I will certainly inform the Leader of the Opposition and the House. The issues were raised last night. My advisers have been provided with that information and I am relating that to the House. I understand the importance of the information.

Hon NORMAN MOORE: Based on the information provided by the minister, and I accept his assurances on these matters, the Opposition will support this clause.

Hon DEE MARGETTS: Having listened to the argument, I note that the Greens (WA) strongly support public transport. The fact that fewer and fewer public transport services are being provided does not reduce our support for public transport; it just means that we seem in this Bill to be replacing a trend as a principle, and that is not the way it is. I will not necessarily call a division on this clause. I can see where the votes lie. I just wanted to record the opposition of the Greens (WA) to the removal of the protection of the Crown and the exemption from paying rates from a public transport authority, albeit one that also has some commercial interests. Quite frankly, the concept that a public transport entity cannot provide anything other than a loss-making service is part of the stupidity of the current national competition policy.

Postponed clause put and passed.

Postponed clause 24 put and passed.

Postponed clause 22: The Act amended -

Resumed from 11 November after the clause had been partly considered.

Postponed clause put and passed.

Title put and passed.

Bill reported, with amendments.

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT BILL 2003

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Nick Griffiths (Minister for Housing and Works), read a first time.

HON NICK GRIFFITHS (East Metropolitan - Minister for Housing and Works) [12.20 pm]: I move -

That the Bill be now read a second time.

The Gallop Government is training Western Australians so that they have the skills for real jobs now and in the future. The purpose of this Bill is to repeal the sunset provisions in the Building and Construction Industry Training Fund and Levy Collection Act 1990. This will ensure that the Act does not expire on 30 June 2004 and that the levy, which funds improvements in the quality and extent of training in the building and construction industry, can continue.

The objectives of the Building and Construction Industry Training Fund and Levy Collection Act 1990 are -

(1) to establish a fund for industry to improve the quality of training and increase the number of skilled persons in the building and construction industry; and

(2) to establish a Building and Construction Industry Training Board to administer the fund and collect the building and construction industry training levy, and for connected purposes.

In April 2002, pursuant to section 32 of the Act and the State Government's requirement for all Western Australia's 165 statutory authorities to be reviewed, a review of the Act was undertaken. This review was chaired by Mr Norm Marlborough MLA, member for Peel. Mr Marlborough was assisted by a review reference committee, the membership of which was drawn from the industry.

The committee was required to inquire into and report on the effectiveness of the Building and Construction Industry Training Board; whether the objectives of the Act had been achieved; the relevance and appropriateness of the current objectives of the Act; whether there was support for the Act to continue, or recommendations for amendments to the Act, particularly in relation to the structure and operations of the board; whether the functions of the board could be incorporated into a government department; and the impact on the building and construction industry if the Act did not continue to operate. The committee invited interested parties to forward written submissions addressing the terms of reference and undertook research into the operations of similar funds in Queensland, South Australia, Tasmania and the Australian Capital Territory. The committee received 22 submissions and there was strong support for the continuation

of a training levy. The success of the training levy funding, particularly in relation to apprenticeship training, and the subcontracting nature of the industry, were some of the reasons given for the continuation of the Act.

The review report was tabled in Parliament in August 2002. The main recommendations included the continuation of the training levy and the appointment of a more representative board with practitioner members who were directly involved in the building and construction industry. The State Government has accepted these recommendations and is committed to continuing the levy for the long term.

In a statement on 13 August 2003, the Minister for Education and Training informed the other House of Cabinet's decision on 2 July 2003 to approve the appointment of members to a new industry based Building and Construction Industry Training Board. The Building and Construction Industry Training Fund and Levy Collection Amendment Bill 2003 will give effect to the second of the major outcomes recommended by the review; namely, the retention of the training levy. The Bill also provides for a further review of the operation of the Act three years from the enactment of the Bill. This review period was originally set at five years but an amendment was agreed to by members in the Legislative Assembly to have this review period set at three years.

A highly skilled and productive building and construction work force is vital to the interests of Western Australians and the state economy. This Bill will ensure that the training levy is retained and that the Act will continue for the purposes of improving the quality of training, as well as increasing the number of skilled persons in the industry. I commend the Bill to the House.

Debate adjourned, pursuant to standing orders.

BARROW ISLAND BILL 2003

Second Reading

Resumed from 17 October.

Order Discharged and Referral to Standing Committee on Uniform Legislation and General Purposes

HON ROBIN CHAPPLE (Mining and Pastoral) [12.24 pm]: I move without notice -

> That the order of the day be discharged and the Bill be referred to the Standing Committee on Uniform Legislation and General Purposes and that the committee have power to consider the policy of the Bill.

I will keep my comments specifically to the reason for referral, and debate other issues later. Clause 9 of the Bill deals with the proposed excision of no more than 300 hectares in total of uncleared land to be leased or subject to licence or easement. That is quite misleading. The Standing Committee on Uniform Legislation and General Purposes could establish the true position with the excision of land on Barrow Island for the purposes of infrastructure and industrial development. The 300 hectares will be set aside to construct a certain number of trains for the ChevronTexaco joint venture and an area for the development of most probably Sassol Chevron, a processing system that utilises the gas off-take from the Gorgon gas field development on Barrow Island.

However, the two pipelines and their easements are not included in that 300 hectares. One pipeline, which will be approximately 10 kilometres long, will take gas onshore from the Gorgon gas fields to the processing facility. Assuming no other attendant developments are near it, that pipeline will need a minimum of a 30-metre easement, which amounts to a further 30 hectares. An additional pipeline will need to be constructed to reach an old well at the north end of the island for reinjection into the Dupuy system for carbon sequestration. That pipeline will also need an easement of approximately 30 metres, assuming no other attendant pipelines are on the island. That also will amount to an easement of approximately 30 hectares. Within this proposal is a notion that no further development will be allowed on the island in future because the Gorgon project will be a stand-alone operation on 300 hectares. However, the proponents' glossy brochure titled "Gorgon Australia Gas", shows other pipelines that will need to run to the island from the Dionysus, Chrysaor, West Tryal Rocks and Spar fields. That could possibly mean further gas pipelines on the island that are not provided for in this process. Not mentioned in this document, but clearly mentioned several times in the Press, is the development of the Io/Jansz field, the Eurytion field, the Geryon field, the Urania field, the Maenad field and the Orthrus field. They will need to take their gas onto the island. Once we have a dedicated pipeline system on the island, the moment we wish to put another gas pipeline on the island the easement will extend from 30 to 100 metres. The next pipeline going onto the island will require a further 100-metre easement. The two pipelines I have already talked about will consume a further 60 hectares. If pipelines from the Jansz or any other fields are to come onto the island, as indicated in the Press on a number of occasions, that will expand the easements to approximately 300 to 400 hectares of land use, which is explicitly identified in this Bill as not being acceptable. I think that, in many ways, we are being misled because, quite clearly, this legislation will have to come back to this place and the other place in a hurry to get those easements in place.

Notwithstanding that, further easements need to be created on the island, as identified in the October 2003 edition of *Petroleum in Western Australia*. There is a particularly good article in the magazine about Barrow Island and geosequestration. One of the requirements of geosequestration is that there be permanent seismic monitoring of any material to be geosequestered. That means that a number of transects across the southern part of the island under which

the Dupuy system lies will need to cover the southern end of the island. I provided to Hon Norman Moore and Hon George Cash maps that indicate what we are talking about. The geosequestration will need to be monitored. Interestingly enough, in the October 2003 edition of *Petroleum in Western Australia* there is a quite detailed explanation of the monitoring required. There is another article that deals with seismic survey methods. It articulates what will be required. It means that to do 3D seismic survey work, there will need to be an extensive network of seismic monitors over the southern part of the island and, to a degree, over the ocean floor to the north of the island to carry out continued monitoring of those areas. In that context, I believe it is critical that the committee evaluates whether the proposals for Barrow Island, as articulated in the Bill, are representative of what might actually happen.

Further to that, we are clearly aware that three reports on the development of Barrow Island have been done at different times. First, there is the Conservation Commission's report of July 2003. Second is the June 2003 "Proposed Access to Barrow Island for Gas Development, Advice on Social, Economic and Strategic Considerations" report, which was done for the Western Australian Department of Industry and Resources by the Allens Consulting Group. The third report is the environmental advice that was provided by the Environmental Protection Authority in July 2003. It is important to note that those reports were critiqued by Dr David Annandale and Dr Ross Lantzke from the School of Environmental Science at Murdoch University in a report for the EPA's service unit. It is also important to note - without going through the page-by-page analysis - the failure of the Government's and/or Chevron's process to get a rational evaluation of what was proposed. Page 11 of the latter report deals with conclusions and reads -

> In conclusion, we believe that we have addressed all of the 'terms of reference' presented to us by the EPA in Mr Tacey's letter of March 5th, 2003.
>
> We accept that it is the proponent's right to present the site selection component as it sees fit. We also accept that a private proponent will often want to weight economic cost criteria highly, either in an explicit or implicit fashion. We have concerns, however, when alternatives analysis is presented as rigorous, triple-bottom-line multi-criteria analysis, when this is clearly not the case.
>
> In our view, the strategic and methodological errors made by the proponent, and explained in some detail above, mean that it is impossible to state that Barrow Island is the highest ranked site for the proposed GPF, when looked at from the perspective of rigorous multi-criteria analysis.
>
> The location and site comparison process outlined in detail in Appendix C does not unequivocally show that Barrow Island is the highest ranked option.

That is what the Government and the proponent have stated in all the documentation we have seen to date. It continues -

> The proponent obtains this outcome by ignoring some of the detail contained in Sections 6.4 and 6.5 of Appendix 2, and by adding in new 'key cost driver components' in Section 4.2.5 of the ESE Review. The most that can be said, based on the Normalised Combined Totals at the bottom of Table 6.6, is that - based on the scores and weightings chosen by the proponent -

I make the point that the proponent chose the weightings -

> there is no significant difference between most sites except for Exmouth (South), which has a significantly higher constraint, and the Montebello Islands which have a moderately higher constraint.
>
> While the use of alternatives analysis is to be encouraged, we believe that the process used by the proponent in the ESP project is fundamentally flawed. A strategically and methodologically sound alternatives analysis process would have followed a structure similar to the one that we have outlined above.

A report commissioned by the EPA to try to come up with an economic evaluation of whether the best option is Maitland or Barrow Island, or another location, has basically found that there is no economic imperative or difference that would preclude any of those other development sites. I am mindful that the Leader of the Opposition in the other place has stated that the Gorgon gas project should be moved to Maitland. It is important that this House, which is a House of Review, look at some of those key issues, about which I believe the public, the Government and/or both Houses of this Parliament are being misled. It is beholden on this House to consider the motion that a committee of review examine many of the discrepancies that currently exist.

HON NORMAN MOORE (Mining and Pastoral - Leader of the Opposition) [12.41 pm]: As I have indicated to the member previously, the Opposition does not intend to support the referral of this Bill to a committee at this time. The debate needs to be had in this House. The Opposition supports the Bill. We have expressed the view that the project should be on the mainland. I think the words used by the Leader of the Opposition in the other place were that we support Barrow Island 100 per cent, but we support the mainland 150 per cent, which I guess is one way of eating our cake and having it too. We would like the issue of the mainland location considered further. It is certainly not within the capacity of this House to change the agreement, nor is it within the capacity of this House, in the time provided to us, to do an analysis to see whether an alternative site is potentially available. As I have said to the member, the House should debate the second reading and make a decision on the policy of the Bill. If it transpires during the committee

stage that there is some issue that the Government is unable to clarify or answer, or if issues are raised that are cause for serious alarm and that would be better understood by reference to a committee outside of this Chamber, then we will contemplate that at the time. We hope the Government knows all the answers, because there are a lot of questions.

One of the great tragedies of the second reading speech in my view is that it glosses over issues that are of great significance. I have spent some time in recent weeks learning a bit about CO_2 sequestration. The impression created by the second reading speech is that it is old hat; it is done everywhere around the world and is not a problem. However, it is a serious matter and one that needs to be considered. I must say that I support what the company is proposing to do, but only after a lot of consideration and detailed analysis. Hon George Cash and I will be asking a lot of questions during the committee stage, and we will be expecting the Government to have the answers to those questions. If the Government does not have the answers and cannot provide information to the satisfaction of the House, and if a committee analysis may improve our understanding, then we will certainly consider that at the time. However, now is not the right time. I indicate very clearly that the Opposition is of the view that this Bill should be passed this year so that the company will have the security and the imprimatur of the Parliament to proceed to the next stage. It is very strongly our view.

We hope that as the project proceeds beyond the passage of the state agreement Act the company will be persuaded to consider other options as it develops the project. Providing additional information about what can and cannot be done might be helpful to the company. My simple view is that the Commonwealth, not the company, must contribute some money; however, that is another story for the second reading debate. I indicate to the member and the House that the Opposition will not support this motion at this time. However, we want to leave our options open. If we do not get appropriate answers to our questions at the committee stage, we will consider reference to a committee at that time.

In conclusion, the Opposition is keen for this Bill to be passed by the end of this sitting - that is, by the Christmas recess - and will not be party to any process that might cause that not to happen.

HON KEN TRAVERS (North Metropolitan - Parliamentary Secretary) [12.46 pm]: I appreciate the comments of the Leader of the Opposition. The Government will oppose the motion. I have no qualms about members asking questions and I will provide answers as we go through the detail of the Bill. The fundamental issue is that members must decide whether they support or oppose this project. That can be done during the second reading debate. I note that the member moved to give the Standing Committee on Uniform Legislation and General Purposes the power to consider the policy of the Bill but that he then spoke about the detail. The first issue is to establish the policy of the Bill and debate the detail in the committee process. The Government will oppose the motion.

HON DEE MARGETTS (Agricultural) [12.47 pm]: I support my colleague's motion for a range of reasons, including the firm belief that the information that has been provided appears, to say the least, to be misleading. However, other very important issues are incorporated in these long-term agreements. The agreement in the Bill relates to the benefits or otherwise that will accrue to the State of Western Australia. The State will receive no royalties under this arrangement. It is astounding to me, and I think to many people in Western Australia, that the State would consider signing such an agreement without trying to get a better arrangement between the Commonwealth and the State of Western Australia. Every time we deal with one of these arrangements, whichever Government is in power, someone is breathing down our neck saying that no-one is allowed to examine the agreement because it is urgent. Members have an obligation to look at these long-term agreements that the State signs up for on behalf of the people of Western Australia because they may have more costs than benefits in total to the community of Western Australia, especially to the Government of Western Australia.

I wonder whether the Government ever intended to follow the recommendations of the Michael Keating review, which states that State Governments should not sign state agreement Acts any more. The Government's own motion in 2001 was to do that very thing - automatically refer state agreement Acts to a committee for review. I presume the Government will support this motion, as it gives effect to its own motion that was passed by the Legislative Council in 2001. In my view, we cannot afford not to review this type of legislation. Examination must be given to the wider issues of the rush to sell off such enormous amounts of gas at bargain basement prices. In a few years, any State in any part of the world that has access to relatively cheap and CO_2 friendly energy resources could have the world as its oyster. The deal that has been signed up to is very ill-considered. We are not only recommended but also obligated to ensure that this deal is in the best interests of the people of Western Australia. If it is not, we should recommend that the Bill be opposed and a better deal be signed. Therefore, I strongly support my colleague's motion to refer the Bill to the committee.

Question put and a division taken with the following result -

Ayes (5)

Hon Dee Margetts	Hon Christine Sharp	Hon Giz Watson	Hon Robin Chapple *(Teller)*
Hon Jim Scott			

Noes (23)

Hon Alan Cadby	Hon Paddy Embry	Hon Frank Hough	Hon Barbara Scott
Hon George Cash	Hon Adele Farina	Hon Barry House	Hon Bill Stretch
Hon Kim Chance	Hon John Fischer	Hon Robyn McSweeney	Hon Derrick Tomlinson
Hon Bruce Donaldson	Hon Jon Ford	Hon Norman Moore	Hon Ken Travers
Hon Kate Doust	Hon Nick Griffiths	Hon Simon O'Brien	Hon Ed Dermer *(Teller)*
Hon Sue Ellery	Hon Ray Halligan	Hon Ljiljanna Ravlich	

Question thus negatived.

Second Reading Resumed

HON GEORGE CASH (North Metropolitan) [12.55 pm]: The long title of the Barrow Island Bill 2003 succinctly sets out what this Bill attempts to achieve. It is important that the long title be read into *Hansard* so that anyone interested in this debate can understand the Government's intention with this Bill. The long title reads -

An Act -

- **to ratify, and authorise the implementation of, an agreement between the State and the Gorgon joint venturers relating to a proposal to undertake offshore production of natural gas and other petroleum and a gas processing and infrastructure project on Barrow Island; the agreement having been entered into having regard to the need to minimise environmental disturbance on Barrow Island (a class A reserve) and providing for the support of conservation programs relating to Barrow Island and other parts of the State;**
- **to make provisions to enable land on Barrow Island (but no more than 300 ha in total of uncleared land) to be used, under the *Land Administration Act 1997*, for gas processing project purposes;**
- **to make provisions as to the conveyance and underground disposal of carbon dioxide recovered during gas processing on Barrow Island,**

and for incidental purposes.

That is what this Bill is all about. It is divided into five parts, plus a schedule. Part 1 covers preliminary issues; part 2 deals with the ratification of the agreement; part 3 deals with the use of the reserve under the Land Administration Act 1997; part 4 deals with conveyance and underground disposal of carbon dioxide; and part 5 deals with miscellaneous matters. Those parts of the Bill comprise 15 pages. The agreement contained in schedule 1 commences on page 16 and continues to page 59 of the Bill. I raise that matter to indicate that the agreement already agreed to by the Executive Government and the joint venturers is subject only to ratification or otherwise by this Parliament. Parliament is not in a position to alter the agreement signed on 9 September of this year. This is a contract that exists between the State of Western Australia and the joint venture partners. It is now for Parliament to accept or reject the agreement in the form presented to it. In fact, the Bill deals with the ratification of the agreement in these express terms -

5. Agreement ratified and implementation authorised

(1) The Agreement is ratified.

(2) The implementation of the Agreement is authorised.

(3) Without limiting or otherwise affecting the application of the *Government Agreement Act 1979*, the Agreement operates and takes effect despite any other Act or law.

Members need to be clear on what we are dealing with in this Bill.

As I have only a few minutes to speak today on this Bill, I indicate that the Opposition supports the legislation. However, it supports it with some reservation as it believes that the Government has acted hastily in entering into an agreement between the State and the joint venture partners. The Opposition believes it may have been necessary to establish the joint venturers' right to use Barrow Island, which is an A-class reserve, but many other matters contained in the agreement could have been negotiated at a later date when more information was available to both the State and the joint venture partners. However, this agreement locks the State in, as of today, to matters yet to be determined. That is a very dangerous proposition.

Again, the Opposition will support this extremely important Bill, which deals with a very significant gas resource located off the north west coast of Western Australia. In fact, this is one of the most important Bills to come to this House, certainly in respect of a gas resource located off the Western Australian coast, since Sir Charles Court's Government agreed to the North West Shelf joint venture arrangements many years ago.

For the benefit of members who may not know the exact location of the gas reserve with which this Bill deals, it forms part of the greater Gorgon area that lies off the north west coast of Western Australia. The Gorgon area is an area west

of Onslow and extends 100 kilometres to the west of Barrow Island, which is located approximately 80 kilometres off the Western Australian coast.

Debate interrupted, pursuant to sessional orders.

Sitting suspended from 1.01 to 2.00 pm

TABLING OF ANSWERS TO QUESTIONS ON NOTICE WITH PRODUCTION OF DOCUMENTS

Motion

Resumed from 22 October on the following motion moved by Hon Robin Chapple -

> That not later than three sitting days of the day on which this order is passed, the Leader of the House, on behalf of the Government, table in this House answers to questions on notice Nos 273, 274, 290, 323, 324, 325 and 326, together with the documents whose production is sought by those questions.

Withdrawal of Motion

HON ROBIN CHAPPLE (Mining and Pastoral) [2.00 pm]: I seek leave to withdraw the motion. I will be substituting another motion at a future stage.

Motion, by leave, withdrawn.

CAPITAL PUNISHMENT FOR OFFENDERS OF HEINOUS CRIMES

Motion

HON FRANK HOUGH (Agricultural) [2.01 pm]: I move -

> The Government take such action to apply a citizens initiated referendum to decide if the courts should be empowered with the discretion to impose capital punishment on offenders convicted beyond reasonable doubt for heinous crimes.

It is important that I read the motion slowly because if people understand the motion, they will know that it is quite different from the hysteria of people who say that we should hang all offenders and then we will get the guilty. Edward Koch, the former Mayor of New York City, made a very good statement when speaking of the death penalty. He said -

> It is by exacting the highest penalty for the taking of a human life that we affirm the highest value of human life.

This motion concerns capital punishment, so some members have probably already dismissed it. It is therefore important that I clarify what the motion is about. The motion is not about giving the masses the right to prescribe options for criminals. It is not about empowering lynch mobs. It is about expanding the sentencing options of our judiciary, which had these expanded options until the Labor Party removed them.

Hon Nick Griffiths: The Parliament removed them, but it was an initiative of the Labor Party.

Hon FRANK HOUGH: The Government of the day removed them. This motion is about empowering judges to use their discretion to prescribe the harshest punishment for those heinous crimes that warrant it. The existing penalties are not adequate.

Hon Nick Griffiths: My recollection is that the law provided a mandatory penalty, not a discretionary penalty.

Hon FRANK HOUGH: I have just covered what the motion is about. Before the minister comes forward and says that I am offering a populist motion on capital punishment, I will refer him page 7 of the One Nation blue book. This is not something that I came up with today; I was involved with this three or four years ago. It states -

> (4) working toward enabling legislation for a binding referendum on capital punishment where the penalty would be mandatory:

The other larger book we have runs to about 80 pages. The Labor Party would probably do well to grab a copy of this book and get some policies out of it, rather than governing from crisis to crisis. On page 36, the book calls for a binding referendum on capital punishment, where the penalty would be mandatory.

To be fair to the Government, I thought I should find out what its attitudes on the matter are. I copied a statement dated 7 August 2003, which states -

> The Opposition leader, Simon Crean, says Bali bomber Amrozi deserves to die for his crime if the Indonesian judicial system deems it necessary.

I thought that was fair enough, and that we had a supporter already. However, I did not stop there. I looked at the Labor Party policy document on civil reform, which shows that the federal Leader of the Opposition has not read his own party's policy. On page 8 the document reads -

> (17) Labor reaffirms its unequivocal opposition to the death penalty.

It is all right for Simon Crean to advocate putting to death people in other countries and say "God help you", but I am talking about Australia and this is very close to home. One Nation is not about managing from crisis to crisis. I had a look at the Liberal Party, which is more conciliatory. It looks as though it is moving into the stance of the Labor Party, which is very encouraging. Hon Peter Foss is quoted in a media release dated 1 March 2002 as saying that judges should hand down sentences that were the norm for a particular crime and met reasonable community expectations. Hon Peter Foss is on the right track there. I added to the bottom of the media release a note to the effect that general community expectations for the death penalty is around 85 per cent. The honourable member did not say that, but I added it to give it a little credence.

Sue Walker, a member in the other place, has said that the Gallop Labor Government planned to do away with the charge of wilful murder because it felt that it should be scrapped. However, Ms Walker says that the offence of wilful murder is the most serious offence in the Criminal Code and should not be downgraded to murder. That is fantastic; the Liberal Party also is showing some toughness and moving towards the One Nation stance. I go a bit further. Sue Walker has also commented on the Government's program to reduce levels of imprisonment. I say to the Government that my motion will reduce imprisonment substantially. I thought it was important to cover those few areas because I thought the minister would start criticising populist policies. These are popular policies. They have been part of our party's policy for four years and will continue to be part of our policy.

I believe we should have a two-part move to introduce a citizens initiated referendum. Not one parent, sister or loved one who has suffered from a heinous crime would not stand by what I am proposing. The only person I know of in recent months who probably would oppose it - I was most surprised by this - is a magistrate from South Australia, whose son was killed in the Bali bombing. Many other people have been involved. Hon Bruce Donaldson is waiting for me to describe what happened.

Last week I went to Bali. I nominated to the Parliament beforehand that I would visit Bali and that I hoped to have a meeting with Amrozi and Imam Samudra. I wrote to General Made Mangku Pastika, who is the Chief of Police in Bali. He very kindly wrote back to me and said that I should go to the Public Prosecutor's Office and gave me the address of, and a contact in, the Public Prosecutor's Office. I went to the Public Prosecutor's Office. Members should not say that our public service is rotten, because I have seen something that is absolutely appalling compared with our public service. Again, I started off with General Pastika and then I went to the Public Prosecutor's Office, which referred me to Mr Max Takaria at the District Court. I went to the District Court and Mr Takaria said that it was not his responsibility and that I should see the chief of the District Court, Mr Suriada. A day and a half had passed by the time I wound up with Mr Suriada. Members can guess what happened then. Mr Suriada said that it was not a matter for his department and that I should go to Mr Satya at the chief justice department. I made an appointment early on Friday morning and I got a call back mid morning while I was not in the hotel informing me to ring before 12 noon. I rang at five minutes to 12 western standard time. Mr Suriada had gone home for the weekend because it was the Hindu festival weekend. He was not due back until Monday afternoon. I then had to wait until after 1.00 pm on Monday to speak to him. Members can guess what happened - he referred me to General Mangku Pastika. At that stage my hair had turned white and I decided that I would do other things. I decided not to get involved with the public service in Bali. I had spent hundreds of thousands, if not millions, of rupiah, which was the equivalent of a couple of hundred dollars.

I stayed at the White Rose Hotel, which is located some 150 metres from the bombsite. I drove past the bombsite many, many times. I had not wanted to have a look at it because I do not feel right about those sorts of things. In the end, I walked up and looked at the memorial to the 88 Australians and the 60 or so Balinese and the other people who were killed. Just about every nationality in the world was represented, from Nigerians to Africans, Swedes, Germans, Dutch and French. There were two here and three there. There was also a fair few Poms. It was heart wrenching to read the inscriptions. One fellow at the hotel at which I was staying said that every piece of glass at the hotel had been smashed by the bomb blast. Glass went everywhere. He is now deaf. He said that many people had been working at the time. People talk about the spin-off of the bomb affecting about 200 people. I also saw another guy walking along the street. A friend was with us at the time. She is a Chinese businesswoman whom I have known for 25 years and have spent time with up there - I was with my wife as well, incidentally. She said that this man had been burnt in the bomb blast and had been about halfway up the street past all the taxicabs when the bomb went off. She said that there are many more people like that around Bali. I guess it is sad to see people like that.

That was our nineteenth trip to Bali. People who know the Balinese people know that they are hard traders when selling something but soft and honest as the day when the deal is done. I put my shirt out to be dry-cleaned on the Saturday morning and must have left 10 000 rupiah in the top pocket. My shirt came back dry-cleaned and with a pin through the 10 000 rupiah, which was hanging on it. They deal hard when they are on the streets, but when a deal is done a deal is done and Bob's your uncle.

My heart goes out to a country of people who have that type of soft heart and tenderness. That happened. They are very angry. They are more than happy for Amrozi, Samudra and all the other people on death row to be taken out of their society and totally out of their lives. I asked how the punishment would be performed in Bali. Apparently, the people who are to be executed are taken down to the beach. A pole is put in the sand and a chair is placed in front of the pole. A red heart is placed on the chest of the person to be executed. Of the 12 riflemen, one has a bullet and the

other 11 have blanks. The back of the person is towards the ocean. The riflemen line up and bang. For a very soft and tender group of people they are very angry. That anger will never leave them.

Those murderers killed not only people but also a society and an economy. Those who are lucky enough to maintain their jobs in the hotels are on half pay. One guy said that he drives in from Uluwatu and that he must spend nearly all his pay on fuel by the time he has driven home again. If he does not get a tip, his family does not eat. These people wear lovely white shirts. They are beautifully clean and shaved and their hair is impeccable. I will get off the Bali issue. That awful incident has wrecked not only many people's lives but also a country in the short term. Australians going to Bali should not have any fear because the people there are right behind them.

I will list four good reasons for stating that capital punishment should be reintroduced and then I will talk about what issues we should put to a CIR. I will then cap off my argument by offering three good reasons to dispel the myths surrounding capital punishment. Firstly, victims need rights, but they are not currently recognised. A few months ago I said we should bring back the birch. The argument I put for corporal punishment was based on the justice system being heavily biased towards the needs and rights of criminals. Nothing has really changed since I made that speech a couple of months ago, but that is why I feel this issue should be addressed. It is one thing for a person to be hurt following a break-in or an assault, but it is something else altogether to suffer as a result of a heinous crime.

I was reluctant to mention this issue today, but I received authorisation from Mr Noble Patterson from Nyabing. I spoke to Mr Patterson five months ago, and he rang me today when he saw that this matter would be raised. Noble is an 82-year-old ex-farmer and he has two sons farming in Nyabing. When he rang me at 9.30 this morning, I told him I would not say anything about what happened, but he said to do it by all means, that it was important to him. Mr Noble Patterson is the father of the young lady who ran out of fuel one evening on the Canning Highway near Melville Motors, and who was coerced into a car by a couple who said they would help her. For those who have not guessed it, the name of the persons who picked her up was Birnie. I asked Mr Patterson how he felt about capital punishment, and he said, "They should shoot the bastards!" He said that every day when he wakes up, the first thought that goes through his head is about his daughter, and there has not been a day since that time when he has not thought about his daughter 20 or 30 times a day. He told me that he sees her girlfriends walking around Nyabing and Perth, who are now married with kids, and he has been deprived of that also. She was a beautiful young girl. He said that the death penalty would at least help him get rid of that hate. Mr Patterson said he heard that David Birnie got sick in prison and was raced to hospital so he could be fixed up because he was having a heart attack. Mr Patterson sits in Nyabing and does not get counselling and help, but we try to keep the last drop of life in that low-life animal. He should not be in a jail; he should be in a cage. He should really be in hell, actually. My heart goes out to someone like that. As I said, when Mr Patterson rang me this morning, he said that not a day goes by when he does not think about his daughter. He is 82 years of age and it must be a tough call. He sounds as though he is a tough guy. My mother lost two sons - my two brothers - in accidents: one was killed in a drink-driving accident and the other was involved in a shooting accident. When I look at my mother I think that she must be very tough. Life is a tough call when our kids are killed. Mr Noble Patterson's two sons, who are farmers, pay tax, some of which goes towards keeping Birnie in the luxury to which he has become accustomed. He has a computer and a television. It adds insult to Mr Patterson's "injury" to be contributing towards the upkeep of people like Birnie. There should be a more appropriate word than "murderer" for people like him.

I undertook most of my research on interstate cases to avoid opening local wounds. It is more difficult to talk about people in our own State who have been murdered in heinous crimes. One case that made me feel sick occurred in New South Wales in 1992. Members will remember Ebony Simpson, a blond-haired primary school student, who lived in rural New South Wales. She was abducted on her way home from school by a fellow called Peter Garforth, a known felon with 76 charges against him. Garforth dragged young Ebony into the bush, taped her mouth and legs and, like an animal, raped her for hours. We cannot imagine how a little nine-year-old girl felt in that situation. He then threw her like a piece of garbage into a dam while she was alive with her hands and legs taped. I have a nine-year-old granddaughter. If that had been her, I would have found a way to get into the jail to carry out revenge. I probably should not raise these points in here. However, they are important. I do not want to brush over these incidents because it is not right to say that someone killed someone, therefore he should be put to death. We should talk about it. If anyone wants to refer to these cases, they can have these copies of the information on the cases I have cited here today. I was talking to my wife last night about that incident and she posed the question of whether a few moments of perverted pleasure was worth more than a person's life. That is what murder is all about.

To take this issue one step further, animals do not get any pleasure from killing. They kill only to survive; they do not kill needlessly. Killing is a part of survival. Are murderers less than animals? That is a valid question.

Hon John Fischer: Animals don't kill for sport.

Hon FRANK HOUGH: No. On the day that Peter Garforth murdered Ebony, he should have been in jail. He was subject to the New South Wales truth in sentencing law. I am sure members will remember the other case in New South Wales from October 1997 when two young schoolgirls, Nichole Collins aged 16 and Lauren Barry aged 14, were abducted by two hardened criminals, Leslie Camilleri and Lindsay Beckett. Camilleri and Beckett had over 200 convictions between them. Nichole and Lauren were repeatedly raped over a number of hours before being driven over

the border into Victoria. They were both brutally stabbed to death. When the schoolgirls were murdered Beckett was on bail for two charges of sexual assault. Camilleri was on 10 charges of sexual assault. All the offences were against minors. Beckett should have been in periodic detention but he never showed up. For the crimes, Beckett received a life sentence with a minimum of 35 years. Camilleri will spend the rest of his life behind bars with an indefinite sentence.

In both cases the perpetrators knew very well that they were doing wrong. They made the choice to rape and murder and they will continue to live at the expense of taxpayers. Not only will they do so, the poor parents of the girls will pay taxes to fund their time in jail. To those men the little girls were just playthings. I refer to people like that as human garbage. Perpetrators of such heinous crimes - for those who do not know - are entitled to support programs including counselling and rehabilitation. They can even obtain compensation for injuries. Some of these perpetrators were bashed in detention. Garforth was bashed twice in jail and lodged a claim with the Victorian compensation tribunal for $50 000 for each assault. Obviously, it was not paid. There was certainly no compensation paid to the parents of the two little girls.

The crimes that occurred in New South Wales can happen here; there is no question about that. Similar crimes have occurred in Western Australia but I prefer not to cite them because it is too close to home.

Punishment must fit the crime. Capital punishment is waived as a sentencing option because the perpetrator has a right to live. However, it means that more embittered relatives are thrown on the heap. The heap is growing! When someone is murdered - a heinous crime - we always think about the parents or relatives. However, it does not stop there. Let us remember dreadful crimes, such as those committed by the Birnies. Let us think of the poor copper who had to go out to the crime scene. He or she went home that night and tried to have dinner with his spouse. He or she needs counselling. Those people have to front up to that. The coroner is next. The coroner has to determine the reason for death. He has to look at the corpse of a nine-year-old to determine what some rotten swine has done. Next is the judge who has to try the case. Judges are not inhuman; they listen closely to cases to determine what happened. What about the 12 jurors? They become part of the case. It does not stop there. What about the friends and relatives? What about the people up the street who did not personally know little Jane but who remember her as a pretty little thing? We must not forget the counsellors who have to talk to these people about their problems. The counsellors need counselling afterwards. It is a huge chain reaction created by some rotten pig who has a total disregard for human life. We say, "What about the poor parents?" Well, what about the poor copper, the poor judge, the poor jury, the poor coroner, the poor best friends, the poor relatives and the poor kids at school who need counselling when little Jane or little Jimmy does not turn up? It is not just one person who is the problem. Look at the Bali situation, when 88 Australians were killed, and at the thousands of people who were involved in the clean-up back in Perth, such as those from the football clubs. How can we sit back and say, "Well, the perpetrators of the Bali bombings are locked up for life and are out of society." Why should they be funded to stay in jail? That is not what it is all about. We should send them to the other land. How can we feel safe when the justice system allows sexual predators to go on parole?

In a just society, those who take a life should forfeit their own. I must qualify that. I am not talking about a person who drives a car when he is drunk and kills someone. I am not talking about a person who accidentally kills someone who walks across a crossing in front of his car. I am not talking about a person like my neighbour many years ago when I lived in the Crestwood estate in Thornlie, who backed out of his driveway and ran over my other next door neighbour's baby girl who was riding a little bicycle on the footpath. I am talking about people who commit heinous crimes. When I say that in a just society those who take a life should forfeit their own, I do not want to get into the semantics of talking about a person who turns around in a bar and punches someone in the head in anger. That is not murder. I am talking about predatory, planned, smoking-gun crimes that are committed by people who are gruesome murderers and can be found guilty beyond a reasonable doubt.

In 1762 Jean-Jacques Rousseau wrote in his book *The Social Contract* -

> Again, every rogue who criminously attacks social rights becomes, by his wrong, a rebel and a traitor to his fatherland. By contravening its laws, he ceases to be one of its citizens; he even wages war against it. In such circumstances, the State and he cannot both be saved: one or the other must perish. In killing the criminal, we destroy not so much a citizen as an enemy.

In our society, the hands of our judges are tied when the crimes tend toward the extreme end of the scale. We know that, because we have removed capital punishment. The ropes that bind the judges are put there by the civil libertarians, who weigh the value of a vicious criminal's life neatly and equally against that of the innocent victim. Is the life of Peter Garforth - he is the person who murdered Ebony Simpson and has 76 previous convictions - worth more than the lives of his victim and her family? What possible excuse can we utter to preserve this man's life, apart from the fact that we are not able to impose capital punishment? In my estimation, that is nowhere near good enough. Garforth's crime, and crimes like it, showed absolutely no regard for the victim. Perhaps little Ebony pleaded for her life or called for her mum; however, we must bear in mind that her attacker targeted and handpicked her. In the research I conducted into this matter, I read about sex crimes perpetrated by gangs and individuals that made me physically sick. Although I have more dot points on the cases I have referred to today, I do not want to be any more explicit than I have been, as I believe members can see my point. I read about how these criminals showed no remorse for their actions and later

bragged about their crimes not only to their mates but also to police officers and anyone else who cared to listen. I can only regard those people as human garbage.

I do not know whether I could put the argument any better than Charley Reese, an American syndicated columnist, put it. He said -

> When I think of all the sweet, innocent people who suffer extreme pain and who die every day in this country, then the outpouring of sympathy for cold-blooded killers enrages me. Where is your . . . sympathy for the good, the kind and the innocent? This fixation on murderers is a sickness, a putrefaction of the soul. It's the equivalent of someone spending all day mooning and cooing over a handful of human feces. Sick and abnormal.

I have covered the fourth area, terrorism, which brought this matter to light. While I was in Bali, the news referred to the events of 11 September and 12 October and said that everyone in Bali was concerned about 13 November. God help us - tomorrow is 13 November. If anything happens tomorrow, I do not think it will be in Bali or America; I suggest it will be in Australia or England. I do not know whether the Balinese philosophy or Dreamtime will come true, but when I was in Bali the people were concerned about tomorrow. I am not concerned because I do not believe that lightning strikes twice in the same spot. It will be a dreadful thing if anything does happen tomorrow.

In addition to heinous crimes on children and premeditated murders, I believe the crime of terrorism is increasing and for which we must be prepared. If an act of terrorism happens in our country, it will be no use trying to address it by getting up in arms in three or six months time. Our organisation should have the trigger set already. That is why I believe it would be smart for Western Australia to take a good look at this issue. I will read part of the motion again -

> . . . the courts should be empowered with the discretion to impose capital punishment on offenders convicted beyond reasonable doubt . . .

The motion states that the courts should be empowered. I do not suggest that members of Parliament select the crimes that would receive capital punishment; the judicial system is a more obvious choice for selecting those crimes and I suggest that terrorism would probably be right at the top of that selection. Many people in the community and many members in the Chamber will have great difficulty with this motion, which is why it is in two parts. Several people have already thrown it on the scrap heap and said what their policy is. This issue must be looked at in a more professional way and a more pragmatic approach must be taken to it. This is why a citizens initiated referendum - a CIR - is the first swing of the pendulum. I want members of this Chamber to have a conscience vote on this motion. Some 100 years ago all members of Parliament were Independents. That achieved a democratic result. I cannot expect to get a democratic result here because of the party machines. If members do not like the motion and the Caucus does not agree with it, contrary to how the members feel, they do as they are told or they will not get endorsed at the next election. I am trying to remove that threat from the cowards who are not prepared to stand up and honestly represent their constituents.

I would like to know where the constituents of members who vote against this motion stand. I have spoken to people in the community and I have not found anyone who opposes it. Obviously members opposite are dealing with a different group of people than I am. Community newspaper surveys agree with me. I have taken the time to let those members off the hook who want to be cowards and not support this motion. Their excuse is that they will not support this motion based on party lines. I do not believe this is a party line issue; I believe members' constituents are saying to them that they should put forward this type of proposal. I can look a lot of members in the eye and ask whether a majority of their constituents agree or disagree with me. Members cannot look me in the eye and say that their constituents do not agree with me. That is why I have put in the safety valve of a citizens initiated referendum.

One member in the House has said that members are elected to Parliament to represent the people, which is true. The community should have a say on issues such as capital punishment. Everyone over 18 who is eligible to vote has been touched by, associated with or affiliated with a crime. Those people are able, capable and intelligent enough to make their own decisions. I would totally oppose using a CIR for issues such as genetically modified organisms or stem cell research. Members are briefed on issues such as GMOs and even then it is still confusing. The broader community could not be expected to vote on GMOs, stem cell research, taxation or the running of the Government. These are issues for which we have professionals and the public service to advise us on. The issue I am talking about is a civil issue. Another issue is water. The Water Corporation is doing a crappy job. I do not know whether I am allowed to say that in Parliament. "Crappy" is not a dirty word. It means something is not quite fixed.

Hon Nick Griffiths: It's not very parliamentary.

Hon FRANK HOUGH: It might not be parliamentary to you, minister, but it is to me. If you are that pathetic, why not leave the Chamber?

Why do we not get proper water from the Water Corporation? Why do we have restrictions? Why not ask the people how to fix these problems? We can ask people for their views in these areas. A broader community input can be sought with CIR in several areas. When the community tells us what to do, they cannot criticise us. If 85 per cent of the community state to the Government that they want capital and corporal punishment, then so be it. That would mean

that the usual 15 per cent - or is it five to 10 per cent? - would be opposed to it, but we cannot please everyone. When this motion I have moved is put, support will go hiding. At the end of day, it will be like the hounds of the Baskervilles. It will be the Scarlet Pimpernel in this Chamber. We seek him here. We seek him there. We seek him everywhere. Where can he be, that damned elusive Pimpernel? Will members vote with Frank Hough? No. "I'm indisposed." Will the minister become the Scarlet Pimpernel?

Hon Nick Griffiths: I'd rather you did not seek me. I'll stay here, thank you very much

Hon FRANK HOUGH: Democracy is achieved indirectly in Australia and its States. The people do not have a direct input on every decision and the decision-making processes at governmental level. Possibly, they should not have that direct input because they have elected representatives - parliamentarians - to do it for them. We need to go to a CIR for many reasons. We must remember that people in the broader community are just as smart as, or are smarter than, us. They have the same feelings. We must have their input. That is why it would be very hard to make a mistake with a citizens initiated referendum on a matter like this.

I looked up some material on CIRs the other day, and I recalled a comment made by Ted Mack a couple of years ago. For members who do not know him, he is a former member of the House of Representatives. He summed up the defects of our system in his presentation to the Samuel Griffith Society at its 1995 conference. Ted Mack said -

> The centralisation of power within the major parties, the overwhelming of parliamentary government by the rigid party system, the negativism and personal abuse inherent in adversary partisan politics, the domination of public decision-making by small élites, major party collusion depriving the public of choice, the now institutionalised 'broken promise syndrome', the failure of governments to be able to handle organised minority groups, and undemocratic electoral systems where only by chance, or usually in spite of devious manipulation, does the resulting government reflect the will of the people.

Ted Mack got it fairly well right. Members could go back 100 years when we were all Independents and -

Hon Norman Moore: Are you an Independent?

Hon FRANK HOUGH: No. I am a member of One Nation, and I am espousing One Nation policy based on the broader community's opinion, honourable member.

Hon Norman Moore: Are you bound by One Nation policy?

Hon John Fischer: Of course; they're all good policies.

Hon Norman Moore: I wanted to know whether you're bound by them. I'm not in that position.

Hon FRANK HOUGH: If the Liberal Party wants to, it may join our 78-page summary of the policies. I went into the policies fairly deeply.

Hon Norman Moore: The issue you raised is whether politicians are bound by party policy. I want to make it clear who is and who is not.

Hon FRANK HOUGH: The last motion was defeated 28-2. Several members approached me afterwards and said that they would have loved to have voted with me but could not do so because they liked their jobs and would not get nomination. One of our party's firm beliefs is that, although we have a policy book, our responsibility is first and foremost to the electorate.

Hon Bruce Donaldson: Why do you call it the little blue book?

Hon FRANK HOUGH: The little blue book is a condensed version of the larger book -

Hon Bruce Donaldson: I have seen the small one.

Hon FRANK HOUGH: That is a more explicit -

The DEPUTY PRESIDENT (Hon Adele Farina): Order, members! I draw members' attention to the fact that we are dealing with motion No 23. Hon Frank Hough should speak to the motion.

Hon FRANK HOUGH: I apologise for having drifted off.

Any opportunity to get input from people should be welcomed. That is one of the reasons citizens initiated referenda are very important in this particular area. CIRs were first introduced at a national level in Switzerland in 1874. In 1998 all states of the Federal Republic of Germany introduced direct democracy. Since 1967, the Bavarians have used CIRs to vote on 14 measures. The voters of North Rhine-Westphalia, Hessen and Rhineland-Palatinate have invoked direct democracy mechanisms -

[Quorum formed.]

Hon FRANK HOUGH: I thank Hon Bruce Donaldson and you, Madam Deputy President. At least now I get a better crowd.

In a speech given at the fifteenth conference of the Samuel Griffith Society, Professor Geoffrey de Q. Walker warned that even Russia has surpassed Australia in the advance to direct democracy. Russia's constitution requires a binding referendum if a petition carries two million signatures. I looked at where the Russians are going with interest. In Russia, the Greens recently collected 2.5 million votes on a petition that related to nuclear waste and the restoration of two environmental agencies that were abolished in May 2000 by President Putin. The Central Election Commission ruled that 700 000 signatures were invalid because they had technical errors, failed to include voters' passport numbers and the like and knocked it on the head. Although Russia was heading towards CIRs, when one was held it was knocked on the head when it did not go the Government's way. One would hope that if we have a CIR, it will go further than that. Article 79 of Uruguay's constitution provides for a CIR system. In 1989, a measure seeking the repeal of the law was placed on the ballot by citizen petition for the first time. Since 1989, Uruguay has used the referendum system on 12 occasions. It is not something that people use every day but when needed for touchy issues.

The 12 members of the convention created to put forward new constitutional arrangements for the European Union have also established a forum to advocate the inclusion of CIR in any future European Union constitution. That is very interesting. In the United States, 28 states plus the District of Columbia have adopted CIR. Professor Geoffrey de Q. Walker states that the CIR adoption in Kentucky and Mississippi is a significant development because the political elites in those states have traditionally used relatively hierarchical power structures to keep people power at bay. Meanwhile in New York, Governor George Pataki has renewed his call for CIR in his state. To quote him, it is to "renew our allegiance to the sacred principle that all power ultimately rests in the hands of the people". When George W. Bush was Governor of Texas, he made a similar statement, which was, "Initiative and referendum make government more responsive to its citizens, neutralise the power of the special interests and stimulate public involvement in state issues." That is very good. I hope George W. Bush lives up to that.

Let us look at what has been done in Australia. Direct democracy has been publicly advocated in Australia since the 1890s. For one reason or another, Australia has not been able to get its act together. Prior to World War I, Queensland seemed poised to introduce CIR, but war changed everything. Geoffrey de Q. Walker explains that this was because Labor had become ambivalent in its attitude to democracy. It had linked up with Socialist International and let the union movement dominate its agenda. Historian Bill Gammage wrote that direct democracy lagged because the war had killed off the generous, the brave and the public spirited, leaving behind the sullen, uncommunicative and haunted. The idealists were dead and with them any hope that Australia could be made into a model democracy. Since then, the desire for direct democracy flared strongly again in the 1970s when the Democrats introduced the first of a number of Bills into the Senate. Since the 1970s, draft legislation to introduce CIR has been introduced or prepared in every State except Victoria and the Northern Territory. It seems that Australian elites have grown accustomed to a system in which their actions and decisions go mostly unchallenged. There can be a long time between elections, and in their arrogance, elites often subscribe to the idea that average people are incapable of grasping facts and making decisions on important matters that affect their own lives. That is a lot of rot. Like their English counterparts back in the mid 1880s, the Australian elites are fearful of giving a voice to the great unwashed. As we have already seen, the elites of other countries have not been so intimidated by direct democracy. Whether the issue is capital punishment or any other issue, in the interests of democracy the people have the right to be heard by those who formulate the law.

Why specifically CIR and capital punishment? There are three good reasons. Since capital punishment is the harshest penalty that can be legally prescribed, the most obvious way to ascertain whether society wants it as a penalty should be through a mechanism of direct democracy. As we have seen, CIR is probably the most obvious. The law is sovereign and we must abide by it because we all live within the limits set by the justice system. It is only right, fair and democratic that all of us who live under the law be given the opportunity to have our say on the types of punishment that we see as fit and adequate. The majority of us make conscious decisions to live within the law. We choose actions because we are aware of the consequences. For most of us the consequences are daunting. However, that is not true for everyone, as we know. If, in our estimation, the rewards for doing the crime outweigh the punishment, a number of us would be willing to break the law. Consider the words of Edward Koch, former Mayor of New York, about the death penalty. He said -

> Had the death penalty been a real possibility in the minds of . . . murderers, they might well have stayed their hand. They might have shown moral awareness before their victims died . . . Consider the tragic death of Rosa Velez, who happened to be home when a man named Luis Vera burglarized her apartment in Brooklyn. "Yeah, I shot her," Vera admitted. ". . . and I knew I wouldn't go to the chair."

What a courageous man! He had no fear of death, because he would not go to the electric chair for killing the woman.

When we give the decision making power to the people, a very interesting thing happens. A majority of the power is taken out of the hands of the ruling elite. This means that popular decisions can be implemented and changes made to a system that might otherwise suffer inertia. Inertia is often the product of failure, or the fear of implementing a change otherwise necessary or timely. By initiating referendums, citizens can place important issues on the agenda that the Government might not otherwise include, or might put on the back burner because they might offend someone and the Government was frightened to go ahead with them. Letting the people decide the relevant issues allows decisions to be made that otherwise would not be made due to the personal convictions of the ruling elite. Decisions made through

citizens initiated referendums relieve the elected representatives of having to vote on issues according to their own conscience. When this happens, the convictions of the majority of the electorate are left out in the cold because the representatives' convictions run counter to those of the electorate. I covered that fairly well earlier on. The democratic process is enhanced by citizens initiated referendums because they curb the Government's executive and legislative influence. As Woodrow Wilson once said -

> Liberty has never come from the government. Liberty has always come from the subjects of government. The history of liberty is the history of resistance. The history of liberty is a history of the limitation of governmental power, not the increase of it.

I have put up a reasonably good case for CIR. I will make a couple of other points, beginning with the cliches of the myths against capital punishment. The argument in favour of capital punishment is based on justice and on the nature of a moral community that requires each person to respect the life and liberty of others. Those who commit vicious crime destroy the basis on which a moral community rests. Some will argue that criminals forfeit their rights to citizenship or even life. There have always been a number of cliches surrounding capital punishment, and they are nothing more than myths. There are five such myths, and I will go through them. The first is that innocent people can be put to death under a regime of capital punishment. This is always a possibility. In life there is no exactitude. This will mean that judges will have to exercise more discretion in handing down the death penalty. It also must be considered that juries are made up of people who are generally unwilling to condemn another human to death unless the evidence is absolutely, unequivocally and completely damning. The crime must be proved beyond a reasonable doubt. So long as any doubt exists or so long as the members of the jury oppose capital punishment, the criminal cannot be sentenced to death.

Another flawed argument is that violence does not solve anything. Throughout history, violence and the use of force have settled more issues than any other action. It is both historically untrue and immoral to say that violence solves nothing. Lesser punishments were handed down to Peter Garforth, Leslie Camilleri and Lindsay Becket to no avail; they went on to rape and murder children. Capital punishment would have set them dead in their tracks. I rest my case on that.

Another flawed argument is that murder cannot be cured by the death penalty. People who utter that line conveniently forget that murder, as defined in any dictionary, is the unlawful killing of a person with malice and often aforethought. The death penalty is prescribed as lawful punishment. It is not a crime of opportunity or an action performed out of malice. There is a difference. Any person who refuses to see it is merely duelling with semantics, and that is what this little minority group that we always bow down to and appease is doing. Instead of looking after the masses, we listen to the little group of agitators. Executing a murderer will not bring the victim back or bring satisfaction through revenge. If that is true, neither is putting away a perpetrator for life. Resurrecting the victim or revenge has never been the object of capital punishment and it is absolutely stupid to say that it is. Capital punishment is about justice; it is about pointing the finger at a person and saying that he must be responsible for his crimes and must wear the consequences. How can we expect anyone to take responsibility for his actions if we have a justice system that does not value the lives of the innocent and instead lets people off for heinous crimes?

Obviously the death penalty is based upon the eighth State of Australia, which is called the United States. Correspondingly, I heard recently that Australia was about to become an additional state of the USA. A lot of the research I have is from the USA. Another myth that is untrue is that capital punishment has a racial bias. The people who make movies in America - for instance, *The Green Mile* - always show that Negroes or Hispanics are being put to death. In America just over 48 per cent of death row inmates are white, 40 per cent are black and seven per cent are Chicano. The remainder are either Asian or native American. Of the persons executed in the United States, 53 were white and 18 were black. We certainly cannot put a racial bias on that by saying that only blackfellas are put to death, because the greater percentage of those executed are white; even Hispanics were not shown in those figures. Of the people sentenced to death in the USA, just under 2 000 were white, 1 500 were black, 28 were native American and 33 were Asian. The fact is that the death penalty does not discriminate in respect of race; it discriminates in respect of the heinous crime that is committed.

I said that 38 states in America have the death penalty, but that has increased. There was a very strong move against the death penalty in the United States several years ago. We have also looked at it in Australia. To be perfectly honest, I believe hanging to be barbaric. The electric chair is also barbaric. I would also not like to face a firing squad because I always think that if the firing squad missed by a couple of inches, I would be left hanging there wondering what was happening. That is why the death penalty in America had a reducing effect during the period when the use of the electric chair and hanging were more prevalent. It has gone back up to 38 states in America because a greater number of people are now being put to death in America by lethal injection. Lethal injection is not regarded or seen to be as barbaric as perhaps the electric chair, hanging or facing a firing squad. There were sometimes problems when the electric chair would go a bit haywire and would only half cook the person, and there were a number of times in the early days of the United States when the hangman failed. Lethal injection is, I guess, more clinical.

Why should people be put to death for heinous crimes? We have to think of the healing process for the people who are left behind. I refer to my trip to Fulsom Prison of April-May this year. I spoke with the psychiatrist at the prison. One

of the factors that assists greatly in the healing of a victim's relatives and parents is when they know that the perpetrator or murderer has been forever removed from society. They feel that that is a major factor in the healing of people affected by the crime. That is worth taking note of.

They have everything in the United States! Not only do they have McDonalds but also other things. There is a web site of a guy who calls himself Deadman Talking. Dean Philip Carter is currently on death row at San Quentin Prison. People can write to him. He puts information up on his web site every day. Dean Carter is totally innocent! I do not know whether any members have spoken to prisoners, but everyone in jail is innocent. No people who are in jail say that they did the crime; they all say that they are innocent. They say that they happened to be in the right place at the wrong time. Such a person will say that, although people say that he had a loaded gun and three people dead in front of him, he was sure that his twin brother who was removed at birth had done it and that he is innocent.

Hon Bruce Donaldson: Pauline believes that everyone whom she met in jail is innocent.

Hon FRANK HOUGH: Yes. I am unable to comment on that because I am not privy to what she said. I would be foolish to make a comment. However, everyone in jail is innocent. If someone finds someone in jail who is not innocent, there is a problem. However, Dean Philip Carter is totally innocent! Carter is on death row for the brutal rapes and strangulation murders of four southern Californian women - Tok Chum Kim, 36, Jillette Mills, 25, her housemate Susan Knoll, 33, and Bonnie Guthrie, 24. An additional murder charge is pending in Oakland, California for the murder of Janette Cullins, 24. Mills, Knoll and Guthrie were murdered within three days of each other. Carter is yet to be tried on the last charge. They were found at the site. Carter was apprehended while driving one of the victim's cars while fleeing from California to Arizona. In the car were items from all the dead people - their IDs, wallets and everything else. People call them trophies. Carter was a drug dealer prior to the murder spree. One of the things that gave him away was not only being caught with all the victims' gear but also, shortly prior to being caught, being filmed at an ATM with a gun at the head of one of his victims while she was removing her money from the ATM. He maintained his innocence, saying he found the car, but the gear from all three women - from different locations - was in the back of a car belonging to one of the women, and some items were also found in his apartment. Can members believe that some sickos write to him because they believe he is innocent? Some people write to Dean Carter and say they sympathise with him. His mum and dad were divorced when he was 18, which makes him mentally unstable. His father was an Eskimo, which does not help; that is another problem. His mother nicked off with another bloke, which makes him a bit more stupid. However, he maintains he is not guilty and he is on death row in St Quentin Prison after being convicted of three murders, and is awaiting sentencing on a fourth, which he will also deny.

Hon Derrick Tomlinson interjected.

Hon FRANK HOUGH: It will mean he is on a quick train to nowhere. Hon Peter Reith made a contribution to the fifteenth conference of the Samuel Griffith Society and said -

> Direct democracy is a process that enables the public to initiate and then make or repeal laws by referendum. Such a process is undeniably democratic. It should be embraced more fully at local, State and federal levels of government in Australia. It would encourage a more transparent political system by encouraging debate. It would make it hard for the politicians to sweep issues beyond public view. It would motivate public interest in political issues and so erode apathy. Successful referendums reflect the views of the otherwise silent majority, and are thus a counter to noisy minority groups who sometimes can have undue influence. By giving the public an opportunity to directly influence law-making, the system would also thereby improve the integrity of the law. And it would be very popular with the electorate . . .

He probably made that speech after he had left the Parliament.

In conclusion, if any member wishes to respond to my remarks, I ask him to read my motion, which states -

> The Government take such action to apply a citizens initiated referendum to decide if the courts should be empowered with the discretion to impose capital punishment on offenders convicted beyond reasonable doubt for heinous crimes.

I do not ask for support for this motion; I expect support for it. I do not expect any smart alec replies to my remarks. I hope everyone treats this matter with respect. A citizens initiated referendum should be held because some members may not have the courage to stand up and be counted. As we say, there will be no "talking heads" in here. I suggest that people who do not have the courage of their convictions leave the Chamber rather than vote against the motion. I expect support from both the Government and the Opposition. It is not an enormous request of the Government. If the Government is not prepared to run with this, I suggest that the Opposition run with it because it will certainly help it win the next election. I do not want to help the Government get back into office or ensure that the coalition remains in opposition. However, if parties find out what the broader community wants, they will concur with me. I am basing my views on information provided in the community newspapers and the surveys I have carried out, which indicate that my views represent those of only 85 per cent of people! If the Morgan Gallup poll can tell us how 10 million people will vote based on a sample of 785 people, surely my surveys, which test a sample double that number, have as much credence or more. I do not phone the same galahs every time I hold a survey. Companies like Morgan Gallup press a

button that connects with the same clowns every time. I do not think Morgan Gallup knows where country areas are so it probably surveys people along the coastal belt and around Midland and Kalamunda. It probably rings people in Geraldton or perhaps Bunbury to seek the views of country folk. I can say with confidence that I represent the views of a greater percentage of people than people surveyed in a Morgan Gallup poll. People know their own mind. Hon Paddy Embry brought in the results recently of a survey in community newspapers. I think he said that 20 000 people paid postage on their reply. The results indicated that about the same percentage of people as I indicated support capital punishment.

In conclusion, I ask for the support of the Chamber.

HON NICK GRIFFITHS (East Metropolitan - Minister for Housing and Works) [3.27 pm]: In my response to Hon Frank Hough I intend to read the motion and I intend to be respectful in my response. I thank him very much for his observations. It is fair to say that there is a time and a place for capital punishment. There were times in history when capital punishment was appropriate. However, it is not appropriate in Australia at this time. Whether a jurisdiction within a country has capital punishment is a measure of the degree of civilisation of that society. Australia is at a level of civilisation at which capital punishment is not appropriate.

Hon Frank Hough's motion reads -

> The Government take such action to apply a citizens initiated referendum to . . .

I will deal with that part of the motion shortly. We are elected through democratic processes, and Governments are formed. Governments put forward measures to the Parliament for the Parliament to say yea or nay to. Most legislative measures that come before the Parliament are presented by the Government. However, our system allows non-government members to bring forward measures. That occurs from time to time. We are elected to make decisions. In the context of how our system operates, a citizens initiated referendum is not appropriate. The proposition is that there be a referendum to decide whether courts should be empowered with the discretion to impose capital punishment on offenders convicted beyond reasonable doubt of heinous crimes. Capital punishment in Western Australia was done away with as a matter of law in 1984. I will stand corrected on the date. As a matter of practice, capital punishment ceased in the early to mid 1960s. I cannot remember the precise date. When Western Australia had capital punishment as a matter of law, it was not a matter of judicial discretion. As I recall, if a person had been found guilty of a particular offence, such as wilful murder, that person was sentenced to death as a matter of course; it was a mandatory penalty. It is to my mind interesting if the member is suggesting that we go back to the system that existed before, to refer to a discretion that gives the judiciary the say about whether capital punishment should occur in circumstances when a death penalty is warranted. If the Parliament decides that capital punishment, or any form of punishment, should be necessary, particularly a punishment as severe as capital punishment, I would think it appropriate that it be the subject of mandatory sentencing. Although we do not have mandatory sentencing in many circumstances, if a matter is so serious as to warrant the death penalty, it would be the proper role of the Parliament to tell the legal system that is the result that should occur. I say that in the context of the opposition to capital punishment, which I mentioned when I commenced my remarks.

Hon Derrick Tomlinson: Although there was mandatory sentencing there was a discretionary power to commute.

Hon NICK GRIFFITHS: Yes, but it was an executive power, not a judicial power. That is why, for almost two decades when we still had capital punishment on the books, there were no executions.

The next part of the motion deals with the imposition of capital punishment on offenders "convicted beyond reasonable doubt". One would think that, at the very least, that should be the case if one were to proceed down the path of the member's proposal. It is the case that the legal system sometimes gets it wrong. The member would be well aware of a very recent example of the legal system getting it wrong. It is also the case that our legal system - that is, the British legal system as applied in Canada, the United Kingdom and Australia - has got it wrong on a number of occasions in recent decades when people who had been convicted beyond reasonable doubt and hanged have posthumously been found not guilty and have been pardoned. The case of Timothy Evans in the United Kingdom is a prominent example of that. That case - and others, but that case was predominant - led to the United Kingdom moving down the path of doing away with capital publishment.

Hon Derrick Tomlinson: Fortunately in a recent case in Western Australia the court got it right on manslaughter but wrong on conviction, and avoided the death penalty.

Hon NICK GRIFFITHS: I note the member makes reference to another prominent case.

The last part of the motion deals with heinous crimes. Hon Frank Hough spent some time in his speech giving examples of very nasty crimes, and he certainly disclosed his abhorrence of those awful events. I have no doubt that every member in this Chamber agrees with the member's abhorrence of the evil acts to which he referred. However, the member tended to drift into the possibility that capital punishment could be imposed in areas that are very abhorrent but are not areas that in the last century the society of Western Australia has thought were appropriate for the application of capital punishment. It should come as no surprise to the member, therefore, that the Government opposes the motion.

HON JOHN FISCHER (Mining and Pastoral) [3.36 pm]: The use of citizens initiated referendums to deal with many of the concerns that confront the citizens of this country has a long history. Citizens initiated referendums have certainly not been confined to any one issue. However, there is no doubt that the motion moved by Hon Frank Hough has encapsulated one of the most emotive issues and probably the one that is most often used to call for a CIR. For the benefit of the uninformed, CIR has also been defined as "community initiative in referendums"; it is the same thing as a citizens initiated referendum. As we all know, a number of pieces of legislation that have been enacted by this Parliament over a long period of time - for example, the Financial Administration and Audit Act - impose checks and balances on everything that the Government does so that the public can be assured of accountability on issues such as taxation and many others. However, the only real check and balance that we in this Parliament face is when we are required to go to the polls. To put it another way, a dishonest or incompetent majority Government could play havoc with our finances, our elections and our environmental concerns by making legislative changes that the balance of elected members were powerless to stop. That should not happen, and I hope it never does. However, to ensure that this scenario does not happen, and to provide the Parliament with ongoing checks and balances, I firmly believe in the initial part of the motion moved by Hon Frank Hough with regard to a CIR, because the voters should have the right to question the Government on its legislation and direction through the official means of a citizens initiated referendum.

The history of citizens initiated referendums nationally and internationally has been well covered by Hon Frank Hough. However, to comment further on the use of CIRs by Parliaments in Australia, it is interesting to note that in July 1987 the Federal Liberal Party pledged, if elected, to examine the possibility of introducing voter initiated referendums. In addition, in a green paper on direct democracy presented by Hon Peter Reith to federal Parliament in the spring of 1998, he said -

> Following its success in Switzerland, Alfred Deakin argued for its adoption -

That is, for citizens initiated referendums -

> into our Constitution at the time of its conception. It was defeated by one vote.
>
> In 1902 it became part of the Labor Party Platform and remained there until removed at the party's Perth Conference in 1963.

It is rather amazing that, when subsequently in power, the federal Liberals did nothing; Peter Reith in particular did not follow up the issue of CIR with legislation. I guess the least said about the Labor Party's views on CIR the better, other than that the Gallop Government has abrogated its stated direction on CIR.

It is pertinent to the motion moved by Hon Frank Hough, and members may be aware, that South Australia recently conducted a constitutional convention. Before and after the convention, a firm by the name of Issues Deliberation Australia Ltd conducted statewide polls on the issues considered at the convention and IDA's results paper was issued in August 2003. It is pertinent to go through the process that occurred at the convention, as it is extremely recent and relevant to what could occur in Western Australia. The results paper stated -

> Twelve hundred and one potential delegates (voting age residents of South Australia) were initially interviewed between June 16 and June 22, 2003. These respondents were typical of respondents in other random sample surveys conducted by Newspoll, and reflected a spread of demographics and opinions that might be found in the general population at that time:
>
> • 49% were male, and 51% female;
>
> • 42% were employed full time, 17% part time, with the remainder not in paid employment (this category includes homemakers, students, retirees, and unemployed people);
>
> • 24% claimed to have a household income of $60,000 or more, 30% an income of $30,000 to $59,000, 31 percent a household income of less than $30,000 (15 percent refused to provide income information).
>
> • 74% lived in the Adelaide metropolitan area, 26% in regional South Australia.
>
> Their occupations included a diverse range - students, homemakers, pensioners, administrators, lawyers, doctors, nurses, mechanics, authors, artists, teachers, psychologists, and those looking for work.

The convention reduced the 1 201 potential delegates to 323 representative South Australians who attended the constitutional convention, which was named "South Australia Deliberates: The Future of our Parliament." As I said, the convention comprised a very good cross-section of South Australian adults. John Davis, the project director for the convention from Newspoll, in commenting on the sample, said -

> Comparing the profiles of the 1,201 people in the pre-deliberation survey and the 323 convention delegates, on a number of factors such as gender, geographical area, household income, and peoples' claimed political affiliations, the two profiles are almost identical.

It is interesting to note that that cross-section of people came up with the results and the implications that they put to the convention, which I will note very shortly. There were slightly more males than females - 51.7 per cent and 48.3 per

cent respectively - and their ages ranged from 18 to 88 years, with slightly fewer of the under 35-year-old age group represented in the deliberative sample of 323, and slightly more of the over-50-year-olds. They approached the deliberation task with what is recorded as dedication and a good perspective. The results paper goes on to say that the final results were post-weighted to compensate for any under representation and over representation.

Sitting suspended from 3.45 to 4.00 pm

Hon JOHN FISCHER: Before the suspension I was speaking about the constitutional convention that was held in Adelaide earlier this year and about the make-up of the delegates. It is important to inform members of the outcome of the convention. I had just explained the make-up of the 1 201 people who were involved in the convention and of the 323 delegates who were also contemplating the issues that were raised. The final results were post-weighted to compensate for under-representation and over-representation, which is the normal practice for all Newspoll random sample surveys. Among other things, the summary results of the surveys refer to the findings of the pre and post-survey deliberation survey results of the 1 201 randomly selected voters. The voters were surveyed about their opinions on various aspects of parliamentary reform eight weeks prior to the deliberations and a subset of 323 delegates who attended the convention completed the post-deliberation survey. It was noted that the representatives left the constitutional convention with a much greater appreciation of the current systems of Parliament in South Australia and of the way their elected representatives represent them. This was reflected across multiple measures of opinion.

Turning to the actual survey results, the parts that interest us here today are those relating to citizens initiated referenda, on which the following details were given. Consistent with their desire to have a say in the political system, the representative South Australians endorsed citizens initiated referenda both before and after their deliberations, with no change in their pre and post-opinions on this issue. After their deliberations, 64 per cent of the people polled were in favour of citizens initiated referenda. When asked about the circumstances under which the citizens initiated referenda should operate, the delegates were strongly in favour of the application of CIR to the initiation of new laws and to change existing laws, although there was a slight decrease in the percentage after the deliberations of the convention.

Additional questions about CIR were asked in the post-deliberation survey to gauge opinions about the type of citizens initiated referenda supported. Strong support emerged for the cautionary step-by-step approach. The result was that 37 per cent of delegates supported direct CIR, and 61 per cent judged direct CIR to be a bad idea. Interestingly, 49 per cent thought that indirect CIR was a good idea, and 48 per cent thought indirect CIR was a bad idea. However, the sizeable majority of 71 per cent thought a two-step system - this requires a wider system of circulation before a referendum is held - was a good idea. When asked the type of system most preferred in South Australia, 13 per cent selected direct CIR, 20 per cent selected indirect CIR, 42 per cent selected the two-step version, and 23 per cent did not want CIR at all.

Following the completion of the post-deliberative questionnaire, delegates were asked to write their most important single priority for parliamentary reform. In the final group discussions of the 23 groups into which the delegates were broken up, delegates were asked to make recommendations. They were specifically asked, "What would you want the parliamentary steering committee and the South Australian Government to hear about your opinions on parliamentary reform in this State?" The answer to those question were analysed for recurring themes and formed the basis for the qualitative results produced. This data has not yet been exhaustively analysed, and a final report will be released. As I said, this convention happened recently. The following preliminary assessment was made of the main themes. On the question of main priorities of parliamentary reform identified by individuals, the number one priority was optional preferential voting; second, the introduction of citizens initiated referenda; third, four-year terms for the upper House; fourth, an independent Speaker; and fifth, the strengthening of accountability and transparency of Parliament. So it went. Strangely enough, contrary to what many people may think, the next item was an increase in the number of MPs in the lower House. Other priorities were multi-member electorates, a true House of Review and the introduction of the unicameral system. My point is that the second most important recommendation from the South Australian constitutional convention was the request for citizens initiated referenda.

When considering its history, CIR has always had very strong support from the voting public in Australia. It seems that both major political parties have used CIR in their policies from time to time. Strangely enough, when they get into power and into a position to introduce the system, there is a lack of memory about these policy documents.

As I mentioned, the 323 delegates at that convention were broken up into 23 groups, each consisting of approximately 15 randomly assigned delegates. They met over a weekend to discuss key priorities for reform. Interestingly, the issues that came out as number one priority was optional preferential voting; second, four-year terms for members of the Legislative Council; third, strengthening the accountability and transparency of Parliament; and fourth, citizens initiated referenda. Therefore, CIR was high on the list under both methods of assessment used at the convention. It is obvious that South Australians currently believe that CIR should be introduced into that State.

Strong support for citizens initiated referenda in South Australia came from various organisations that canvassed its introduction in many ways, including a brief but informative flyer that offered arguments both for and against. Citizens initiated referenda will not interfere with the political process; in fact, they will give the community control of the reins that will guide a Government back on track should it deviate too far from the purpose for which it was elected,

particularly if that deviation is caused by minority pressure groups or non-elected powerbrokers. That is extremely relevant to the motion put forward by Hon Frank Hough. Some minority pressure groups and behind-the-scenes powerbrokers bring unreasonable or self-serving pressure to bear on parliamentarians and parties when there is a small margin between those who do and those do not form Government. The introduction of CIR is probably one of the most effective ways to equal that out. It will also mean that people will not be rendered powerless when great changes are made between elections. People must be allowed to express their concerns in an orderly, meaningful and democratic way, and at the relevant time. Unfortunately, after four years it is often too late to undo what could have easily been prevented. The community must have the ability for greater input - certainly greater input than it currently has - into decisions that affect them.

One of the handouts that goes with the promotion of CIR states that with the process of initiative and referenda, the noisy minorities will have to get more genuine support for their arguments and that the wishes of the majority will be heard. Further, parliamentarians will know exactly where they stand with the public and what is required of them. A venue for utilising community commonsense will be opened up and the re-emergence of the principle of government of the people for the people and by the people would surely be widely welcomed. Much of the undue influence exerted by non-elected powerbrokers could be challenged in a non-party political manner. The Government that installs this system will cause an upsurge in the acceptance of politicians within the community. Governments at all levels would benefit by the introduction of CIR because it would create an atmosphere of teamwork between communities and parliamentarians instead of the distrust and cynicism that currently exist. The Government that allows the community an equal right to initiate referenda will engender greater trust in that Government.

There is no doubt that these are the views of the great majority of the people in South Australia. The discussions I have had with my constituents are pretty much representative of the way Western Australians view the need for CIR. There are numerous advocates for CIR in Western Australia. I refer to a recent article by Joe Proprzeczny in *Business News*, the heading of which is "More power to the people". I would like to read the whole article, but it would probably take too long. It is an extremely relevant article to the issues of CIR and to the motion put forward by Hon Frank Hough. The article reads -

> Do Western Australia's 91 MPs wield too much power over longstanding community customs and traditions?
>
> Mark Twain would probably say they do, as it was he who penned that one liner about people not being safe while legislatures were in session.
>
> The determined manner in which Attorney-General Jim McGinty has, among other things, moved to ensure homosexual couples can adopt children and gain access to in-vitro fertilisation is prompting some to believe Twain perhaps understated matters.
>
> Mr McGinty can be confident that his planned changes to the Family Court Act and the Acts Amendment (Lesbian and Gay Reform) Bill will soon become law.
>
> The reason is that it's party policy and Labor maintains tight discipline over its MPs - they must vote as caucus dictates, otherwise they lose endorsement.

The PRESIDENT: I think I can pre-empt Hon Bruce Donaldson. I was wondering what relevance Hon Frank Hough's point had to the motion at hand.

Hon Bruce Donaldson: That was not to be my point of order.

The PRESIDENT: If it was not, I am raising that one. Is there an additional point of order?

Hon Bruce Donaldson: I draw your attention to the state of the House, Mr President.

The PRESIDENT: That too!

[Quorum formed.]

The PRESIDENT: I am sure that the member who has the call, having attracted a quorum, will relate his comments to the motion in the name of Hon Frank Hough. I am sure that he will then keep a quorum.

Hon JOHN FISCHER: Thank you for drawing my attention to the fact that I may be straying slightly, Mr President. However, I am trying to make a case for the introduction of a citizens initiated referendum, which of course would be implemented by the Government of the day to allow the courts to take such action that they believe is within their discretion. I believe my point is relevant to the issue of how and why a Government should be instructed by the majority of people. As I have outlined, it is the convention in South Australia.

The PRESIDENT: I had not picked up the member on the basis that there are two parts to the argument. Indeed, a citizens initiated referendum is one part. Obviously, the motion pertains to a citizens initiated referendum for the purpose of achieving a particular end rather than all other possible ends that citizens initiated referenda might produce. I merely remind the member of that in respect of his comments.

Hon JOHN FISCHER: Thank you, Mr President.

The article I was quoting goes on to say that the briefest definition of a citizens initiated referendum is -

> The right, properly constitutionally entrenched, of citizens to demand that a binding referendum be held.

Of course, had some of the initial policies of the major parties been followed and CIR been introduced, we would know exactly what the public of Western Australia felt about capital punishment. Over the years various people have called for the introduction of CIR on this subject, which is most definitely covered by the motion of Hon Frank Hough. As I said initially, a CIR would certainly cover many other subjects, but capital punishment is probably one of the most emotional subjects that a CIR can involve. I believe that in many cases Governments are particularly concerned about what the result of such a referendum might be. If CIR were introduced, they would be bound to act on it.

I reflect again on the power of vociferous minorities to counteract the wishes of the people of Western Australia. That has already been covered, but we should reflect on the fact that some of the measures passed in this Parliament were introduced by CIR. It is time that we in this Parliament recognised that we represent the people who vote for us and apply ourselves to governing for the people and not for certain voluble individuals or sectional interests. The availability of CIR to voters would ensure that we did our job properly.

In summary, CIR is the way to reintroduce integrity into the parliamentary process and regain the respect of the voting public. It will also give the voting public the opportunity to ensure that politicians honour their pledges, particularly those made during election campaigns. It will be a means to keep us honest and to promote transparency in our dealings. I fully support the motion of Hon Frank Hough for a citizens initiated referendum to decide whether the courts should be empowered with the discretion to impose capital punishment on offenders convicted beyond reasonable doubt of committing heinous crimes. I have no doubt at all that most of the voting public in Western Australia support the introduction of CIR for this and for other issues. The only reason it will not be put in is that the Government is concerned that the result will totally turn its opinion of capital punishment on its head. Until 1963 it was part of the policy of the Labor Party, and the quicker it can be implemented, the more true representation we will see in this Parliament of the people who put us here.

HON DERRICK TOMLINSON (East Metropolitan) [4.22 pm]: I am sure members will agree that this is an interesting motion. It has three parts, rather than two. The first part calls on the Government to take action to apply a citizens initiated referendum. There are no provisions under Western Australian statutes for citizens initiated referenda. The first part of this motion requires the House to decide whether a statute for citizens initiated referenda is desirable. The second part calls for a referendum to be held to decide whether the courts should be empowered with a discretionary capital punishment power. The second part of the motion raises two questions - whether it is desirable to have capital punishment available to the courts; and whether that punishment should be discretionary rather than mandatory, as was the case in days of yore.

The third part is that the punishment be for offenders convicted beyond reasonable doubt of heinous crimes. What are heinous crimes, and should the option of capital punishment be available for heinous crimes? We must then apply the question of whether there shall be a citizens initiated referendum for that particular purpose and that particular purpose only, because the motion does not call for citizens initiated referenda as a general rule; it asks for a citizens initiated referendum on the question of the option of capital punishment for heinous crimes.

As far as heinous crimes are concerned, as you well know, Mr President, this nation was founded on a very respectable British justice system, which, when the colony of New South Wales was proclaimed on 26 January 1788, provided for 220 offences that were punishable by death. One of those offences was, of course, grand larceny. Grand larceny was stealing goods above the value of 20 shillings, or £1 - $2 in current value.

Hon Paddy Embry interjected.

Hon DERRICK TOMLINSON: Stealing a sheep or breaking the bough of a tree in the king's park - not the one up the road, but in the royal park - was punishable by death. The poor fellow who faced a penalty from the Department of Conservation and Land Management for breaking the bough of a tree some little while ago would have been liable on 26 January 1788 to a penalty of death for breaking that bough. Heinous crimes are a foundation of Australia. Less heinous crimes, such as petty larceny, were punishable by transportation for five, seven or 10 years or life. Petty larceny was stealing goods worth less than 20 shillings. My great-grandfather came to Western Australia as a guest of Her Majesty Queen Victoria because he committed the less than heinous crime of stealing a lead pipe to the value of two shillings and sixpence; hence, he was transported under the Pentonville scheme.

Hon Ed Dermer: Have you given the lead pipe back yet?

Hon DERRICK TOMLINSON: I will not tell members what happened to that lead pipe, but I can tell them that my sinkers work very, very well! However, that is beside the point.

Hon John Fischer: That is a heinous crime!

The PRESIDENT: Order, members! I think we are coming nearer to the definition of heinous crime.

Hon DERRICK TOMLINSON: As I pointed out, the punishment for petty larceny at that time was transportation, in this case to the colony of Western Australia, where, as I recall, my great-grandfather was set to work at Port Gregory in

the Northampton lead mines. There is something of a poetic irony in that: he was convicted of stealing a length of pipe worth two shillings and sixpence, transported to the colony of Western Australia and set to work in the lead mines of Northampton.

Hon Frank Hough: What year was that?

Hon DERRICK TOMLINSON: As I recall it was 1863 - five years before the last convict was sent to Western Australia.

Hon Frank Hough interjected.

Hon DERRICK TOMLINSON: I will not go into my great-grandfather's guilt or innocence, except to say that one of the best judges in England sent him here. He came here and established a dynasty. One could say that the best judge in England was a man of considerable discretion and discernment.

Let us go back to the first question, because there are four questions. The first question is whether there should be citizens initiated referenda.

Point of Order

Hon FRANK HOUGH: Hon Derrick Tomlinson must have a different copy of the motion from the one I have. There are no commas or full stops in my motion; it is one question. He said that there were three or four questions, but I clearly see just one question.

The PRESIDENT: There is no point of order. People may see the motion in many different lights. Indeed, there are many different lights to come.

Debate Resumed

Hon DERRICK TOMLINSON: Since I am being called up on points of grammar, we should have a look -

Hon Frank Hough interjected.

Hon DERRICK TOMLINSON: No, I will not go into it. What the honourable member is saying is correct. There is a single question, which within it poses four questions. The first of those questions is whether it is desirable to have citizens initiated referenda, because it asks the Government to take such action so as to - the motion left out the "so as" - apply a citizens initiated referendum. For a Government to take such action as to apply a citizens initiated referendum, it must legislate for a process of citizens initiated referenda. That is the first question. Is it desirable that this House recommend to the Government that it apply citizens initiated referenda? That is a question worthy of debate.

I listened very carefully to what Hon Frank Hough and Hon John Fischer had to say. During the 1980s, citizens initiated referenda became very popular as propositions in political debate in Australia. There was a popular embracing of the notion of citizens initiated referenda across the whole spectrum of political persuasion. In the debates I followed, the unresolved question was always the size of the sample of the population that was sufficient to request a referendum and for it to be initiated. Some people argued that 11 per cent of the electorate should be sufficient to initiate a referendum. In California, something like 11 per cent of the registered voters is sufficient to initiate a citizens initiated referendum. Others would argue that 11 per cent is only one in nine of the population, and that this is not sufficiently representative of the total population to justify such an initiative and so on. It foundered on that. It also foundered on the matters on which citizens should be empowered to call for referenda. Should it be a plenary power? Should citizens initiated referenda be open to all matters of public interest or should it be limited to a prescribed range of matters? Hon Frank Hough's motion is asking that the Government take such action as to apply a citizens initiated referendum to decide whether there should be a discretionary authority of capital punishment for offenders convicted of heinous crimes. It is a very limited proposition. It is not a proposition for citizens initiated referenda; it is a proposition for the Government to apply citizens initiated referenda legislation to a single question. If we are to legislate for citizens initiated referenda, it should go beyond a single issue. I am not arguing for or against citizens initiated referenda. This was a matter of considerable public ferment and a very popular movement in the 1980s. It has diminished somewhat, but it is kept alive by a few interest groups. That does not discredit it in any way. It is an idea worthy of consideration. In fact, one example of a healthy modern democracy is the Swiss system of government, which allows citizens initiated referenda in its cantons. If a sufficient number of cantons call for a referendum, it is initiated. That is an example of how it works in a modern political system. Of course, we saw the consequence of the citizens initiated referendum in California, when the Government was forced to curtail tax increases. Perhaps in a case such as that I would be more sympathetic to a citizens initiated referendum.

The next question is whether we should have a discretionary authority for capital punishment. The Minister for Housing and Works pointed out that, while it was not until about 1984 that the then Labor Government introduced legislation to abolish the death penalty, the last person executed under Western Australia law was Eric Edgar Cooke in 1964. The mandatory death penalty available under Western Australian law was for wilful murder. Murder was punishable by mandatory life imprisonment. Of course, at that time, capital punishment was available for wilful murder, and I think it was still available for treason and for fleeing in the face of the enemy or desertion - except that I think it was an arbitrary judgment and a summary penalty for desertion in the face of the enemy. I do not know whether

punishment with the death penalty is still available for treason; I assume not. It has been a long time since we in Australia executed somebody for treason, if we ever did. I certainly cannot recall an occasion. However, is wilful murder necessarily a heinous crime? I suppose if we say that the taking of a life intentionally, with malice aforethought, is heinous, certainly the wilful murder of children with malice aforethought, by a person of sane mind, would be countenanced as a heinous crime. I will refer to a couple of the crimes recently experienced in Western Australia, such as the so-called Greenough murders, where the offender not only murdered a woman and her three children, but also committed other atrocities. The popular view of that would be that it was a heinous crime.

Had much of the evidence been made public that was not published by the media, there would have been a popular outcry demanding the death penalty for that person. Likewise, the crimes committed by the infamous Mr and Mrs Birnie were heinous. We tend to think of murder as being heinous. Would we extend the death penalty to apply in rape cases, especially if it were the rape of a child? What about the rape of a two-and-a-half-year-old child? I cannot think of anything more heinous. Shall we allow the courts the discretion of the death penalty in that sort of case?

I do not think anyone would hesitate to say that the people who were responsible for the attack of September 11 in New York were guilty of a heinous crime. The people who flew the planes executed themselves, but those who planned it were equally guilty. If we were to experience something similar and, for example, someone were to perpetrate an attack on a building in Perth that caused the death of hundreds of people and maimed a large number, that would be a heinous crime. Should the courts have the option to choose the death penalty in that case? The question of heinous crime depends on whether the circumstances provoke a feeling of revulsion in the public. Whether a crime was heinous is circumstantial, is it not?

If we were to hold a citizens initiated referendum I hope it would not be for that single purpose. We would need to be cautious about defining offences that should be eligible for capital punishment rather than simply say it should apply to heinous crimes. Rape is a heinous crime. Should it be mandatory that every rapist be executed?

Hon Frank Hough: Most people would say yes.

Hon DERRICK TOMLINSON: I would say yes. I think it is the worst crime of all; it is even worse than murder. However, I do not think we would get much popular support for that.

Hon Frank Hough: We would from women.

Hon DERRICK TOMLINSON: A large number of women would support it. Many women would find the notion of "legal murder" offensive. That is the nature of a pluralist society.

Hon Frank Hough: Capital punishment is not a heinous crime.

Hon DERRICK TOMLINSON: Some people would see it that way. The late Ron Saw wrote an excellent article for the *Bulletin* describing the death of Ronald Ryan, the last person hanged in Victoria. The article described his feelings when he witnessed the execution of Ronald Ryan. Disregarding all the political ferment that related to the execution of Ronald Ryan, the description of the execution engendered in any thinking and feeling reader a sense of revulsion. That was the way Ron Saw felt on witnessing the execution and that is the way he conveyed it in the article. It is one of the finest pieces of journalism I have ever read.

Hon Frank Hough: I said that I thought death by hanging or the electric chair was barbaric. I think that lethal injection is the only method that should be administered.

Hon DERRICK TOMLINSON: Choose your weapon. The question is not whether execution is by hanging, lethal injection or by being cuddled to death. It is a question of the taking away of life. Some people regard life as sacrosanct.

Hon Frank Hough: Not criminals who commit heinous crimes.

Hon DERRICK TOMLINSON: I think the member is getting right to the point of his argument: it is the word "heinous". Any motion to be entertained by this House would have to take that word and apply it to particular crimes.

The next question is the one that seems to be entertaining most of the minds in this Chamber. It is whether the penalty should be discretionary. Do we allow judges to decide whether a crime is sufficiently abhorrent to qualify as heinous and then to impose a death penalty? In one respect, judges are given discretion every day. Under statute, judges have available to them maximum penalties. Judges impose the penalty they think is appropriate to a crime according to the circumstances and the mitigating factors etc. That imposes upon judges the power of God to decide between life and death. Is it fair to give that awful responsibility to a judge? Pragmatically, that is what judges are there for; that is what they are paid for. In human terms, it is not a decision I would like to impose upon anybody. It is something akin to a doctor who has to decide whether it is worthwhile continuing to resuscitate a patient. At what stage does he turn off the switch to allow the process of dying or living to continue?

Hon Frank Hough: If someone detonated a bomb at Subiaco Oval and 2 000 people were killed, would you have great difficulty?

Hon DERRICK TOMLINSON: Who was playing?

Hon Frank Hough: East Perth.

Hon DERRICK TOMLINSON: If you asked me, I would have no difficulty in saying that the perpetrator should be executed. The reason I would have no difficulty in saying that is that I was outraged by a couple of the crimes to which I referred when I said that those people should hang. As a matter of fact, on the steps of the Parliament in about 1990 I said that about a 14-year-old boy who had cut the throat of a seven-year-old with such severity that the head was attached to the body by only a thin flap of flesh. So revolted was I by that crime that I said on the steps of Parliament House that there are some cases for which the death penalty is justified. However, whenever I get to the stage of being so revolted and think that the crime is so heinous that the person should die, I then say, "Well, am I going to be the one who pulls the switch?" That is the real test. Are we willing to be the one who commits the execution?

Hon John Fischer: But do you not have a commitment to your constituents to be able to make decisions like that?

Hon DERRICK TOMLINSON: Fortunately I have a cop-out here, because I can say that in this matter I have to represent my own conscience. That is a cop-out; I admit to cowardice. I will not go on at length, because I know that Hon Frank Hough wants a few moments to respond. In some respects this motion is very confused, although I think it has been moved with good intent. We must ask four questions. Does this body of decision makers - legislators - think that citizens initiated referendums are worthwhile? If we are to have a citizens initiated referendum, should it be initiated by the Government for a single purpose? If a citizens initiated referendum is to be for a single purpose, what do we mean by a heinous crime? When does a crime become heinous?

Hon Robyn McSweeney: When people rape, murder and pillage.

Hon DERRICK TOMLINSON: When people rape, murder and pillage in times of war they are heroes. It depends entirely on the circumstances. The next question is that if we are to have the death penalty for heinous crimes, should it be a discretionary or a mandatory penalty? There are too many questions for us to bend our minds to. I would have been happier had Hon Frank Hough stuck to the single question of a citizens initiated referendum, because that is a matter very worthy of not merely our consideration but also public consideration.

HON NORMAN MOORE (Mining and Pastoral - Leader of the Opposition) [4.52 pm]: In commenting on this motion I must say at the outset that I have the same view as Hon Derrick Tomlinson about the motion. The motion is confusing, because it deals with a number of confusing issues. The notion that the Government should take action to apply a citizens initiated referendum is a contradiction in terms. A citizens initiated referendum is initiated by citizens, not the Government. The member is suggesting that the Government initiate a CIR. Perhaps the member should reword the motion to say that the Government should initiate a referendum, and he could then move another motion at some other time to say that he wants citizens initiated referendums to be included in the laws of Western Australia. The notion that the Government should initiate a citizens initiated referendum is a contradiction in terms and a bit of a nonsense. However, I understand what the member is trying to do, and perhaps a simple amendment may fix that up if that is what the member wants to happen. However, because at this time we do not have citizens initiated referendums, it would be necessary for the Government to initiate such a referendum; therefore, it would be a government initiated referendum if we were to have one. Frankly, I do not have a problem with having a government initiated referendum on the issue of capital punishment. I add that I think I know what the result would be. It would be about 55 per cent for and 45 per cent against. It might even be more than that. When I first came into the Parliament, it would have been about 95 per cent for and five per cent against, but I think the attitude of the community has changed since that time. I would not be unhappy if a referendum were held. If it were conducted properly, with a proper and sensible debate, we might get a meaningful result.

The motion seeks to empower the courts with the discretion to impose capital punishment. I have been concerned for many years about the amount of discretion that the courts already have on a range of issues. How often do we hear people complaining about the lack of discipline in the court system and that many determinations of the courts are too lenient? What we want in this country is more certainty in the outcome of the court process rather than less. I do not want to leave to the discretion of the courts the decision whether capital punishment should apply to a particular offence. That is a decision that the Parliament should make. I think Hon Nick Griffiths has the same view. I say to the mover of the motion that if we were to leave that discretion to the courts, nobody would be hanged and there would be no capital executions as a result of the motion. I do not believe that anybody running a court these days would use the discretion to apply capital punishment to an individual.

The motion includes the phrase "beyond reasonable doubt". I do not know what beyond reasonable doubt means. I know what the member is trying to get at. Perhaps if a crime worthy of capital punishment were witnessed by 5 000 people who were all prepared to swear on a stack of Bibles that they had absolutely no doubt that a certain thing had happened, then those circumstances may come under the definition of beyond reasonable doubt. However, there have been many murder cases in which there continues to be a reasonable doubt about whether the accused person was guilty of the offence. John Button is a classic example. On several occasions the courts found that he was guilty of murder beyond reasonable doubt, but ultimately the Supreme Court found that he was not. Without reflecting on the courts, I found it difficult to contemplate the verdict in a recent murder trial. No body has been found, yet a person has been found guilty of murder. I would have thought the case was based on circumstantial evidence. Again, where do we

draw the line on what is a reasonable doubt and what is not a reasonable doubt? There have been many occasions in the past, and we have heard a couple of examples today, when people have been executed for a crime and it was found afterwards that they had not committed the crime. If the member can convince me that there is some sort of definition of beyond reasonable doubt that would ensure that anybody convicted of committing a crime did do it and there could be no question about that person having done it, there would be some circumstances in which I would support capital punishment. There have been some murders and terrorist attacks and so on, the perpetrators of which I believe were deserving of capital punishment.

The motion also refers to "heinous crimes". Again, this is an issue of definition. What is a heinous crime? I suspect the definition is in the eye of the beholder. It is a very subjective term and would mean different things to different people. Some crimes and some murders are so horrendous that every member of this Chamber would regard them as heinous crimes; however, there are other crimes on which people would have a difference of opinion. Again, who would decide that a crime in Western Australia is regarded as heinous so as to allow somebody to decide that the offender must be executed for that crime?

The motion leaves so many questions unanswered that it is very difficult to support it. I know why the honourable member has moved it in the way he has: he does not want a simple, straight-out debate on capital punishment. He wants the debate to be about asking the people. I have an open mind on the notion of asking the people through a citizens initiated referendum. I have been for and against it during the course of my political career. At the moment I do not have a particular view. People could vote for popular decisions in citizens initiated referenda, which could turn out to be wrong decisions. If a referendum were held on bringing water from the Ord River to Perth on a day as hot as it is today, 99 per cent of the voters would agree with it. However, they might not have realised it would cost them $7.50 for a glass of water. A popular decision could be made that would unreasonably burden the State. I have some doubts about whether the issues would be debated decently; that cannot be guaranteed. A referendum could have been held recently on poll taxes and 97 per cent of people would not have supported having a poll tax - although there is no such thing as a poll tax in Western Australia. That issue was completely clouded by a newspaper that took no notice of the facts or of the reality of the situation.

Debate interrupted, pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

GROUND WATER IN THE PERTH REGION, SUSTAINABLE YIELD

1460. Hon NORMAN MOORE to the Minister for Government Enterprises:

I refer the minister to the Government's ongoing water restrictions -

(1) What is the estimated annual sustainable yield of ground water for the Perth region?

(2) Is it the Water Corporation's understanding that the sustainable yield is the amount that can be extracted without causing degradation to the environment?

(3) What is the current estimate of total annual ground water extraction in the Perth region?

(4) Does the Water Corporation plan to access the portion of Perth's sustainable yield of ground water that remains unused; and, if not, why not?

(5) What would be the estimated increase in water consumption for 2003-04 if households were permitted to use water sprinklers on one extra day per week?

Hon NICK GRIFFITHS replied:

I thank the member for some notice of this question.

Questions (1) and (3) should be directed to the Minister for the Environment because the Water and Rivers Commission is the agency concerned with the assessment of these facts.

(2) Yes.

(4) Yes.

(5) It is estimated to be at least 15 gigalitres.

LOT 587 HERBERT STREET, BROOME

1461. Hon NORMAN MOORE to the parliamentary secretary representing the Minister for Planning and Infrastructure:

I refer the minister to lot 587 Herbert Street, Broome, which is currently the subject of expressions of interest to purchase.

(1) Is the Government interested in purchasing the lot?

(2) If so, how does it propose to use the land?

Hon KEN TRAVERS replied:

Unfortunately I do not have a copy of that question. I am not sure where it is. I have not seen anything along that line today.

Hon Norman Moore: It was there this morning.

Hon KEN TRAVERS: I have an answer for a question Hon Robyn McSweeney placed on notice this morning, but I have nothing from the Leader of the Opposition.

MS DENZIL McCOTTER

1462. Hon GEORGE CASH to the parliamentary secretary representing the Minister for Health:

(1) Is Ms Denzil McCotter the Executive Director of the Alcohol and Drug Authority?

(2) If not, did Ms McCotter occupy this position and, if so, when did she commence as the executive director, when did she resign, and on what date was her resignation effective?

(3) Why did she resign her position with the authority?

(4) What were the terms and conditions of her employment contract in respect of salary, termination benefits and/or resignation benefits?

(5) What amount was paid as a resignation or termination benefit? Was this amount funded by the authority; and, if not, what was the funding source?

(6) Will the minister table a copy of the employment contract; and, if not, why not?

(7) Who is the acting executive director of the authority and do the terms and conditions relevant to this position differ from those applicable to Ms McCotter?

(8) If yes to (7), how do they differ?

Hon SUE ELLERY replied:

The answer I have is quite detailed. I seek leave to have the answer incorporated in *Hansard*.

Leave granted.

The following material was incorporated -

I thank the member for some notice of this question.

(1) No.

(2) Dr McCotter was seconded to the position commencing on 20 April 2002. Her cessation came into effect from 26 September 2003.

(3) Dr McCotter sought to end her employment pursuant to the terms of her Metropolitan Health Service Board (MHSB) contract.

(4) As per clause 12 and schedule C as set out below -

12 **Termination of Contract**

12.1 Expiry of Contract

The contract expires on the day the term of the appointment expires.

12.2 Notice

(a) If the Officer wishes to terminate this contract before the term of his/her appointment expires, he/she is required to give the MHS Chief Executive Officer at least 12 weeks written notice of termination.

(b) If the Employing Authority wishes to terminate this contract before the term expires, it must give the Officer 12 weeks written notice of termination or payment in lieu of such notice.

(c) The parties may agree to a shorter period of notice than provided in (a) or (b) above and, where such shorter period of notice is agreed to, payment in lieu of notice will not be made under paragraph (b).

12.3 Restriction on Compensation for Early Termination

(a) Except where this contract is terminated for sub-standard performance or breach of discipline, where the Officer's contract is terminated by the Employing Authority before the term expires, the Officer is entitled to compensation in accordance with this clause as follows -

Length of Service of Officer At time of Termination	Compensation
Within 1st year of employment	Payment equal to 1 year of salary
Within 2nd year of employment	Payment equal to 1 year of salary
Within 3rd year of employment	Payment equal to 1 year of salary
Within 4th year of employment	Payment equal to 2/3 year of salary
Within 5th year of employment	Payment equal to 1/3 year of salary

(b) If the MHS Executive Officer obtains employment in or contracts to an organisation of the Western Australian Public Sector or Public Service before the expiry of the period on which compensation has been calculated and paid under subclause (a), the Office must refund the amount of the compensation corresponding to the unexpired portion of that period to the Employing Authority.

(c) If the compensation is not refunded it may be recovered as a civil debit.

(d) This compensation will not be paid if the officer elects to retain a right of return.

SCHEDULE C - MONETARY AND EMPLOYMENT BENEFITS

This Schedule operates from the 28th day of September 2000.

The Total Remuneration payable to the Officer is comprised of -

Base Salary	$140 000
Superannuation[1]	See Note[1]

(5) The amount paid was consistent with the terms of the contract. The amount paid was $244 122.60, including severance pay, salary, long service leave and other related entitlements, funded by the WA Alcohol and Drug Authority.

(6) Yes.

(7) Associate Professor Steve Allsop. Yes, the terms and conditions differ.

(8) Dr Allsop will receive a higher duties allowance for the position of A/Executive Director as determined by the Salaries and Allowances Tribunal (Group 1 min).

DUNSBOROUGH CENTREPOINT SHOPPING CENTRE

1463. Hon BARRY HOUSE to the minister representing the Minister for Indigenous Affairs:

(1) Why has activity suddenly been stopped on the vital main water connection for the new Dunsborough Centrepoint Shopping Centre with only one day's work required to complete the connection?

(2) Is the minister aware that the new centre is due to open on Thursday, 11 December with work proceeding to this well-known timetable for a long time?

(3) Is the minister concerned about the massive disruption and cost this will impose on many small businesses going into the new centre if it is prevented from opening as planned prior to Christmas?

(4) Will the minister immediately authorise the commencement of work on the water connection so the centre can open as planned?

(5) If no to (4), why not?

Hon KIM CHANCE replied:

On behalf of the Minister for Local Government and Regional Development, I thank Hon Barry House for notice of his question.

(1) Ground disturbing activity was stopped when a member of the public advised that the work was impacting on a registered heritage Aboriginal site. Investigations by the Department of Indigenous Affairs revealed that the proponents did not have the required consent of the Minister for Indigenous Affairs under section 18 of the Aboriginal Heritage Act 1972 for the use of the land on which the site is situated.

(2) Yes.

(3) Yes. However, the situation could have been avoided if the proponents had addressed Aboriginal heritage issues properly at an earlier stage of planning. If this had occurred, the site could either have been avoided or a

notice seeking the consent of the Minister for Indigenous Affairs for the use of the relevant land under section 18 of the Aboriginal Heritage Act could have been lodged well in advance of the proposed work.

(4) The minister cannot authorise the resumption of work on the water connection without receiving a recommendation from the Aboriginal Cultural Material Committee under section 18 of the Aboriginal Heritage Act in relation to the proposed use of the land. To assist the proponents, the Registrar of Aboriginal Sites has agreed to accept a late notice under section 18 of the Aboriginal Heritage Act. This will ensure that the Aboriginal Cultural Material Committee can consider the notice when it meets on 2 and 3 December 2003.

(5) See answer to (4).

WATER SERVICES COORDINATION ACT 1995, REVIEW

1464. Hon DEE MARGETTS to the minister representing the Minister for the Environment:

The panel of the recent review of the Water Services Coordination Act 1995 was asked to make recommendations that promote a regulatory regime for the water industry that protects the needs of customers of water service providers.

(1) With 26 recommendations of this report still under consideration, how is the minister planning to address the ongoing inequitable situation faced by pensioners and low-income earners who are not customers of the Water Corporation and therefore ineligible for government rebates?

(2) With the Auditor General's recent assessment of the Office of Water Regulation as being drastically under-resourced in mind, does the minister plan to take a more active role in the endorsement of the pricing changes that private water supply companies make?

Hon KIM CHANCE replied:

I thank Hon Dee Margetts for her question. It may have been the way I heard the question, but it appeared that the question Hon Dee Margetts read was slightly different at the beginning from my version. Maybe I did not hear her accurately. The answer to the question in the written form is as follows -

(1) The question of discounts to pensioners and low-income earners is not specific to the water industry alone. It comes within the wider responsibilities of the Treasurer, and recommendations in relation to this matter have been referred to him.

(2) The Auditor General has not made any statement about the resource level of the Office of Water Regulation.

ALCOA WAGERUP REFINERY, FUTURE TRIPARTITE GROUP

1465. Hon JIM SCOTT to the minister representing the Minister for the Environment:

(1) Have Yarloop community representatives refused to participate in the tripartite process until the environment improvement plan - EIP - working group has finalised the model for Western Australia and contentious issues relating to plant emissions, further investigation and monitoring have been settled?

(2) Has the Department of Environmental Protection and/or Alcoa sent out 1 500 invitations for people to apply for representation on the fast track committee, and is this an attempt to replace current community members who are on the committee?

Hon KIM CHANCE replied:

I thank the member for some notice of this question.

(1) The Department of Environmental Protection has not received a formal position statement from the Yarloop and Districts Concerned Residents Committee that it refuses to participate in the tripartite process. The latest advice from the committee was that it had concerns over the establishment of a tripartite process, including the issues raised by the honourable member, but it did not dismiss itself from future involvement in the tripartite process.

(2) The DEP has sent out 1 269 letters and nomination forms explaining the tripartite process and seeking community nominations from a broad range of interested parties to participate in a future tripartite group. The distribution included representatives from the Yarloop and Districts Concerned Residents Committee. The department believes that the tripartite proposal is the appropriate forum to resolve the issue and welcomes community involvement. There is no existing tripartite group for management of environmental issues.

BROOMETIME LODGE

1466. Hon JOHN FISCHER to the Minister for Housing and Works:

With respect to the Broometime Lodge, located at lot 61, 52 Forest Street, Broome, which is now being used as a hostel for patients attending the Kimberley dialysis centre, a letter dated 31 January 2003 from the Department of Housing and Works states -

The managing agents have agreed to reasonable access to the pool to be limited to the hours between 10.00am and 9.00pm and the live in caretaker has been instructed on these initiatives and has given a commitment that he will monitor behaviour on the property constantly.

The managing agency for this facility does have a stringent set of guidelines for behaviour in regards to premises that are under their control.

I advise the minister that I have received serious complaints regarding physical abuse and foul language emanating from these premises and ask -

(1) In view of these complaints, will the minister inform the House whether a full-time resident caretaker manager is employed at the premises?

(2) If yes to (1), will the minister explain the absence of this person on 8 November at about 7.45 pm?

(3) If no to (1), how can the stringent set of guidelines for behaviour be controlled at all times?

Hon NICK GRIFFITHS replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The Department of Housing and Works received a report of an incident of antisocial behaviour that allegedly occurred at 7.45 pm on 8 November 2003. The department has contacted the managing agent, Aboriginal Hostels, and has sought an urgent response regarding the incident. I expect a report on the matter soon and I will advise the member further once I am in receipt of that report.

(3) Not applicable.

DANDARAGAN PRIMARY SCHOOL

1467. Hon BRUCE DONALDSON to the parliamentary secretary representing the Minister for Education and Training -

I refer to class sizes and classrooms at the Dandaragan Primary School and ask -

(1) Is the minister aware that the Dandaragan Primary School intends to lodge a grievance against the minister and the Department of Education on this issue?

(2) Does the minister intend to provide the extra classroom that is so desperately required at Dandaragan Primary School; and, if not, why not?

(3) When will the fence referred to in the minister's correspondence of 3 September 2003 be constructed?

(4) Is the minister aware that the multipurpose room has folding tables and chairs and is used as a classroom, a library and a classroom for languages other than English?

(5) Is the minister aware of the growing population in the Dandaragan district and the distress that the lack of action by the Government is causing teachers, parents and students?

(6) If yes to (5), when will the minister act to rectify the unacceptable situation at the Dandaragan Primary School?

Hon LJILJANNA RAVLICH replied:

I thank the member for some notice of this question.

(1) No.

(2) No, because it is considered that the current enrolment can be adequately accommodated in the existing facilities.

(3) Construction of the fence and pathway is expected to commence next month.

(4) Yes, this is a school decision approved by the teachers and parents.

(5) From 1982 to 2003, enrolments at Dandaragan Primary School have fluctuated from a low of 44 students in 1986 to a high of 80 students in 1982, with an average over this period of 61 students. The primary enrolments in the past five years have fluctuated between 57 students in 2001 and 2002, and 61 students in 2003. Although the 2003 school enrolment of 75 students in years K to 7 is larger than the average number of students in recent years, whether this constitutes permanent growth is unclear.

(6) The situation will continue to be monitored.

INTERSTATE PATIENT ASSISTED TRAVEL SCHEME

1468. Hon GIZ WATSON to the parliamentary secretary representing the Minister for Health:

(1) Does the Western Australian interstate patient assisted travel scheme provide financial assistance to patients who travel interstate for approved medical procedures currently unavailable in Western Australia?

(2) What is the annual budget for the Western Australia interstate patient assisted travel scheme?

(3) How much was spent last year on this scheme?

(4) What were the approved medical procedures for patients who successfully claimed under this scheme last year?

(5) As pre-implantation genetic testing is not available in Western Australia, but is available interstate, is this an approved procedure under the scheme?

Hon SUE ELLERY replied:

I thank the member for some notice of this question.

(1) Yes.

(2) The allocated budget for 2003-04 is $345 000.

(3) $559 394 was spent last year on this scheme.

(4) Specialist medical services not available in Western Australia and covered by an item in the commonwealth Medicare benefits schedule book including -

carnio-facial surgery and follow-up for those patients who first received treatment in Adelaide prior to 1993-94 when this service commenced at Princess Margaret Hospital for Children;

paediatric liver transplant;

stereotactic radiosurgery;

lymphatic laser therapy for intractable lymphoedema;

specialised paediatric cardio-thoracic surgery; and

patients with individual clinical circumstances as authorised by the Deputy Director General, Health Care.

(5) No. Under the existing guidelines the pre-implantation genetic testing procedure does not attract the commonwealth Medicare benefit. Should the Human Reproductive Technology Amendment Bill 2003 be approved by Parliament, this will enable pre-implantation genetic testing in Western Australia.

DIAMOND TREE SKY LIFT, MANJIMUP

1469. Hon ROBYN McSWEENEY to the parliamentary secretary representing the Minister for State Development:

I refer to the proposed Diamond Tree sky lift at Manjimup. The federal Government some time ago allocated $800 000 towards this project and the developers have put in considerable amounts of their own money. They have applied for state funding. As it is now becoming urgent that this project commences, where is the State Government up to with an answer on whether funding will be allocated?

Hon KEN TRAVERS replied:

I thank the member for some notice of this question. I am advised that the Minister for State Development dispatched advice to the proponents regarding state funding on 31 October 2003.

POST-LOGGING AUDIT

1470. Hon CHRISTINE SHARP to the minister representing the Minister for the Environment:

(1) Did Department of Conservation and Land Management officers recently conduct a post-logging audit of operations in any of Alco, Yornup and Thornton forest blocks?

(2) If yes -

(i) who conducted the audit, and what logging coupes were audited;

(ii) were any breaches of logging regulations, prescriptions or specifications, or ministerial conditions, identified;

(iii) if yes to (ii), has any action been taken against the Forest Products Commission or any contractor for any breaches;

(iv) if yes to (iii), in what form; if not, why not; and

(v) who were the contractors who carried out the roading and logging in these forest blocks?

(3) Will the minister table a copy of the audit report?

(4) Has any action been taken by CALM or by the Conservation Commission for any breaches of logging regulations, prescriptions or specifications in the past three years? If yes, please specify.

Hon KIM CHANCE replied:

I thank the member for some notice of this question. Providing the information in the time required is not possible, and I request that the member place the question on notice.

KINDERGARTENS, CLASS SIZES AND EARLY CHILDHOOD TEACHERS

1471. Hon BARBARA SCOTT to the parliamentary secretary representing the Minister for Education and Training:

I refer to an answer given to me by the minister on 24 October.

(1) Will the minister provide the names of the schools in which kindergarten classes exceed 20 children - that is, the 63 classes specified - and the number of children in each of these classes?

(2) Can the minister inform the Parliament which of these 63 classes have an early childhood teacher in charge and the number of classes that have additional teacher time allocated?

(3) How many of the 63 classes have a trained early childhood assistant? What is the qualification of each of those trained assistants?

Hon LJILJANNA RAVLICH replied:

I thank the member for some notice of this question, and provide this response on behalf of the parliamentary secretary representing the Minister for Education and Training -

Providing the information in the time required is not possible and I request that the member place the question on notice.

WINDARLING RANGE, PORTMAN MINING LTD

1472. Hon ROBIN CHAPPLE to the minister representing the Minister for the Environment:

I refer to the decision of the minister to overturn the Environmental Protection Authority's advice in bulletin 1082 that mining not be allowed at Windarling Range.

(1) Will the minister provide a copy of the conditions imposed on Portman Mining Ltd by the minister?

(2) Did the minister at any time give a commitment that an extension to the Mt Manning Nature Reserve would be considered as a form of conservation offset?

(3) If yes to (2), can the minister provide a copy of any statement made in this regard?

(4) If yes to (2), can the minister provide an update on progress towards this objective?

(5) If yes to (2), was the minister's approval of the Portman Mining expansion into Windarling conditional on the extension of the Mt Manning Nature Reserve?

Hon KIM CHANCE replied:

I thank the member for some notice of this question. In response to an exchange that took place across the Chamber a few moments ago, I will just observe that the nature of questions that can properly be answered during questions without notice is rather different from the nature of questions that can more appropriately be placed on notice.

Hon Alan Cadby: Some of my questions were sent to ministers a week before being asked in the House.

Hon KIM CHANCE: That simply indicates that some members do not understand the process. I am simply trying to explain to members who do not understand the process that the nature of a question suitable to be asked during questions without notice is somewhat different from the nature of a question on notice. To illustrate this in answering the question of Hon Robin Chapple, the bundle of papers I am holding is the answer to his question.

(1) Yes, and I seek to table the attachments.

(2) In making a decision on appeals related to the proposal, the Minister for the Environment committed to ensuring timely implementation of key aspects of CALM's goldfields regional management plan 1994-2000, with particular reference to the progression of the proposed extensions to the Mt Manning Nature Reserve outlined in that plan as a priority.

(3) Yes. A copy of correspondence to an appellant detailing the minister's appeal determination, which provides a statement in relation to this matter, will be tabled.

(4) The matter is being progressed at an interagency level.

(5) The minister's approval of the proposal was not conditional on the extensions to the Mt Manning Nature Reserve. However, the progression of the extensions was one of the many considerations taken into account in making a determination on the matter.

I table the material referred to.

[See paper No 1658.]

HARVEY WATER

1473. Hon NORMAN MOORE to the Minister for Government Enterprises:

(1) What is the situation with the offer made by Harvey Water very early this year of an extra three gigalitres for the Perth market?

(2) Has a decision be made about that; and, if not, why not?

Hon NICK GRIFFITHS replied:

(1)-(2) No decision has been made. The matter continues to be examined and is the subject of discussion between Harvey Water and the Water Corporation. The Leader of the Opposition will be aware of the history of Harvey Water, and I trust he will take that on board when he asks the question again in due course. I will be in a position to give him an answer when a decision has been made.

POLICE STATIONS, UNMANNED

1474. Hon DERRICK TOMLINSON to the minister representing the Minister for Police and Emergency Services:

I hope my question will not offend the sensibilities of the Leader of the House. It can be answered in one word and two letters.

(1) Are records maintained of times when police stations are unmanned or closed during normal business hours because police officers are engaged elsewhere or for any other reason?

(2) If so, in the month of October 2003 -

(a) how many times during normal working hours were Forrestfield and Kalamunda Police Stations unmanned or closed; and

(b) on which days and at what times?

Hon NICK GRIFFITHS replied:

I thank the member for some notice of this question. The Minister for Police and Emergency Services has provided the following response -

The Police Service advises -

(1) Generally, specific records are not kept of times police stations have unscheduled closures. However, if a station is closed, appropriate arrangements are put in place to cover the area.

(2) Not applicable.

GERALDTON REGIONAL HOSPITAL, CONSTRUCTION CONTRACT

1475. Hon RAY HALLIGAN to the Minister for Housing and Works:

I refer the minister to the contract for Geraldton Regional Hospital, which was won by Broad Construction Services Pty Ltd.

(1) On what date was the tender decision made?

(2) Was Broad Construction's tender the least expensive of the final tenders received?

(3) If not, how many of the final tenders received were less expensive than Broad Construction's tender?

(4) When was the Government informed that the cost of the project would be $49 million?

(5) What provision was made in the final contract for any cost blow-out?

(6) In keeping with the Government's promise to make all contracts publicly available, will the minister table the contract?

Hon NICK GRIFFITHS replied:

I thank the member for some notice of this question.

(1) The tender has not yet been awarded. Broad Construction Services Pty Ltd is the preferred tenderer and tender evaluation is proceeding. It is anticipated that a tender will be awarded within three weeks.

(2) Yes.

(3) Not applicable.

(4) After tenders were received, and there was a higher than expected number, the total cost of the project was re-estimated at $49 million.

(5) A contingency has been allowed for any unforeseen cost changes during construction, as is normal practice.

(6) The contract will be tabled after it is awarded.

EAST PERTH POWER STATION PROJECT

1476. Hon BARBARA SCOTT to the parliamentary secretary representing the Minister for Planning and Infrastructure:

I will have a second attempt at getting an answer.

I refer to the possible sale of the Entertainment Centre land by Kerry Stokes to the Government for it to construct an indoor concert and sports arena.

(1) Will the Government be calling for expressions of interest to develop the East Perth power station site? If not, why not?

(2) Will the minister confirm that Mr Stokes' East Perth power station art gallery project is a stand-alone project and not part of any deal with Mr Stokes over the Entertainment Centre land?

(3) If the minister will not confirm that the East Perth power station project is a stand-alone project, in the interests of accountability will the minister provide complete details of what has been proposed regarding the Entertainment Centre land and the East Perth land?

Hon KEN TRAVERS replied:

I thank the member for some notice of this question. In the time allowed, I do have an answer.

Hon George Cash: It's a miracle!

The PRESIDENT: Order, members!

Hon KEN TRAVERS: The answer is as follows -

(1)-(3) Discussions with Mr Stokes concerning the East Perth power station site have never involved the Entertainment Centre land. Any disposal of the East Perth power station site to private interests would be preceded by an expression of interest process.

QUESTION WITHOUT NOTICE 1015, SUPPLEMENTARY INFORMATION

HON KEN TRAVERS (Parliamentary Secretary): In response to question without notice 1015, a commitment was given to provide copies of reports relating to Aboriginal heritage consultation on the Perth to Mandurah rail project when the reports had been identified and collated. I now table copies of those reports.

[See paper No 1659A-P.]

MEMBERS' STATEMENTS

Kenny Jerrold

HON ROBIN CHAPPLE (Mining and Pastoral) [5.31 pm]: I rise tonight with a degree of sadness to note the passing of Kenny Jerrold, a senior Yindjibarndi elder who was unfortunately killed in a motor vehicle accident yesterday. The accident involved his vehicle and a road train at the turn off to the Cheeditha community just outside Roebourne. A number of people were in the vehicle. Most escaped injury. One child remains in a coma. I have met with Kenny on a number of occasions and more recently over Burrup related issues, for I had pleasure in his company and in his wisdom. His wisdom, stature and knowledge will be a sad loss to the Pilbara community.

I am angry that this sad loss of life may have happened because of the failure of authorities to provide a speed limit consistent with the entrance to an Aboriginal community. This community exists on the crest of a bend on a stretch of road covered not by the speed limits of the adjacent town of Roebourne but only by the limitations of the open road. It is an extremely difficult entrance for anybody who wishes to make that turn.

Again, I note the passing of a dear man, Kenny Jerrold.

Minister for Education and Training, Answers to Questions

HON ALAN CADBY (North Metropolitan) [5.33 pm]: I wish to respond to the Leader of the House because it is important that he have the background to this issue before he makes a comment. Hon Barbara Scott and I have asked Minister Carpenter a number of questions over the past four weeks. We know the difference between the type of questions that require time to consider and those that do not require a considerable time to consider. We have both received the same answer; that the minister has insufficient time to answer the questions. Four weeks ago I sent the minister three questions on policy. I actually sent them to him in the first week of a two-week recess. When I asked one of the questions on the following Tuesday, the answers were not here. I raced off to find out what had happened and the minister said he did not have time to sign them off. I gave considerable notice of those questions. I expected the minister to respond in a way that a minister is supposed to respond. At the moment the minister is under a bit of pressure from teachers, but he still has a responsibility to Parliament. He should lift his game. If he cannot cope, he should get out. Today or yesterday I asked a simple question about the number of students involved in the Vacswim program for the past four years. That question was sent to the minister last Friday. Friday, Monday and Tuesday should have been sufficient time to enable his staff to obtain that answer, but the answer was not forthcoming.

Hon Ken Travers: You should have put it on notice.

Hon ALAN CADBY: The honourable member should shut up.

The PRESIDENT: Order!

Hon ALAN CADBY: If I ask a question that needs a detailed answer, I give it on notice. The parliamentary secretary knows that because he has received several from me recently.

Hon Ken Travers: You wanted four years worth of research.

The PRESIDENT: Order, members! The parliamentary secretary may wish to receive the call shortly. If he has already exercised his right to speak, he will not receive that call.

Hon ALAN CADBY: Thank you, Mr President. I have asked the Parliamentary Secretary to the Minister for Planning and Infrastructure a number of questions on notice because I knew it would take a long time to answer those questions. Hon Ken Travers does not know the questions I have asked the Minister for Education and Training. Once again he is spouting his mouth off when he knows nothing about the questions I have been asking.

First, the Leader of the House should check that members are receiving the service that they deserve, and that their electorates deserve. We are asking questions not for ourselves but on behalf of the electorate. Secondly, the leader should talk to his ministerial colleague Hon Alan Carpenter and suggest that if he cannot handle simple questions asked in this place, maybe it is time for somebody else to take over, somebody with a real interest in education who is prepared to tackle the serious problems facing young people in this day and age.

HON BARBARA SCOTT (South Metropolitan) [5.37 pm]: I rise to support what my colleague Hon Alan Cadby said about his dismay and disappointment following the reaction from the Minister for Education and Training or his department. On 24 October I asked the minister about the number of straight kindergarten classes containing in excess of 20 children. I was told there were 63. I also asked about the total number of children in excess. I do not have that number, but I think it was 1 378. This Minister for Education and Training was able to advise the number of classes that exceeded 20 children and the number of children by which those classes were exceeded. Two weeks later I asked the minister to name the schools in which those classes exceeded 20 children. I expected the minister's office or the department to have the list of the 63 schools that were found two weeks ago to contain more than 20 children in a kindergarten class, and that the information would be supplied by way of an answer. The second part of my question related to teachers' qualifications. I expected that information to be recorded in Department of Education and Training records. The Minister for Education and Training is being very devious in a week when teachers are under stress. Parents have a right to know which classes are exceeding the optimum level - that is, no kindergarten class in this State should exceed 20 children. I have been told the number of children involved and that 63 classes exceed 20 children. Surely that is not too much to ask the Minister for Education and Training. The list of schools must be available.

I say to the Leader of the House that I do not believe I am being unreasonable. I will put the question in two parts tomorrow and wait for an answer. It is a reasonable question. The Minister for Education and Training's office gave me the number of 63 classes two weeks ago. Surely now he can advise the number of children in each class. The figure must have been available two weeks ago. I suggest that the minister is trying to hide something this week when conciliation talks will proceed on teachers' pay claims. The parents of this State have every right to know whether their children are being delivered appropriate early childhood programs. They must be delivered in small classes otherwise the children might as well be babysat somewhere else. If any teacher is required to cope with more than 20 three-year-olds, we cannot expect sound early childhood education to take place. That is my interest in seeking the information. It is a valid reason for seeking information from the minister. I want to tell my constituents and send a message to teachers that 63 kindergarten classes have an excessive number of children. What sort of early childhood programs are being delivered to those classes?

We heard the Premier say that the Government has drawn a line in the sand and will do something long term because long term means a commitment to early intervention. This Government is not committed to early educational intervention if it continues to allow early childhood class sizes to exceed acceptable numbers. It is not good enough for the minister to answer my question by saying that the teachers have agreed to work with those classes because the schools do not want to restructure upper-level classes. That is utter nonsense. No person involved in early childhood education in this country or internationally would accept that early childhood programs should ever become like watered-down grade 1 programs or baby-sitting periods. That is all teachers can provide when class numbers are in excess of 20; although the optimum number is lower than that. The development of children's language; assessing whether they can see, hear and speak; learning through play to negotiate; and the basic elements of literacy and numeracy are part of an informal program. We cannot conduct informal programs with little children in crowded classrooms.

This Government must tell the truth about this issue and admit that either it does not have the funding to provide extra classrooms or it does not have the commitment to provide extra teachers. I am interested to know what additional teacher time is being allocated to kindergarten classes. How would they be managed in a school? What sort of teacher can be taken from another classroom to assist a kindergarten teacher? It is not good enough to tell me, in response to my question of 24 October about class sizes for kindergartens, that when classroom numbers exceed 20 additional assistance will be provided. What sort of training do the assistants have? No-one who has anything to do with education would agree that assistants can prepare programs to the same standard that qualified teachers prepare them, especially specialist programs required for early childhood education. That is not on.

The Minister for Education and Training is getting away with deceiving this Parliament and therefore deceiving the public of Western Australia by not providing adequate answers to questions. I am determined to get those answers so that the information can go on the record and out to the public of Western Australia. This Government has no commitment to long-term intervention with little children. The member opposite is shaking his head. What would he know about the impact of 24 three-year-olds in a small classroom all day?

Hon Paddy Embry: Have these classes been overcrowded all year? We are almost at the end of the year.

Hon BARBARA SCOTT: Well, exactly. I asked the question on 24 October and I was given information for that date. I also asked the question on 3 June during the Estimates Committee and was told a different figure. This Government says it has a commitment to early intervention but if it is not putting quality early childhood programs in place, I should tell all parents in Western Australia that they may as well withdraw their children. Some members of this place have dealt with two or three four-year-olds. What sort of quality program do they expect can be delivered in a classroom of 24 children aged three and a half years? It is a nonsense; it is an infringement of children's rights to good early childhood education. It is not good enough for anyone, especially the Minister for Education and Training, to suggest - as has been suggested - that the Government has dealt with early childhood and put programs in place. I will keep reminding this Government and Parliament that quantity will never replace quality. We must ensure that the quality of programs for early childhood education is maintained. For example, if I break my knee, I will not visit my gynaecologist to get it fixed. Likewise, early childhood programs must be delivered by appropriately trained people who understand child development. It is not good enough for the minister to tell me that he will draw in a couple of extra assistants to help teachers. What will they do? I have assisted in programs for 10 years while my four children went through kindergarten. I was a trained teacher but I was not qualified to deliver the program of the kindergarten-trained person. However, I was able to do some things and observe my children.

This Government must wake up. There is no point in looking at the effects of offending youth and juveniles if it does not fix the problems early. This is one of the critical things: smaller class sizes in the early years. It is something that this Government promised to put in place in 2003. It said that every class from preprimary to year 3 would have a maximum of 24 children and that no kindergarten class would have more than 20 children. I will take this matter further once I have the information from the minister. I feel very offended for the children and parents of this State, not for myself. It is arrogant and dismissive and shows no regard for sound early childhood programs if the minister will not let me know which classes are too large.

HON KIM CHANCE (Agricultural - Leader of the House) [5.47 pm]: Hon Barbara Scott has just used some very strong language concerning the Minister for Education and Training. Indeed, she has accused him of deceiving the Parliament. That is extremely strong language and a very serious accusation to make of a minister of the Crown. There are statistics around that clearly show the record of the Gallop Government in reducing class sizes in its first three years in office. Considering the record of the Liberal Government over its last eight years in office - prior to the election of the Gallop Government - on class sizes and its appalling record of year 12 retention rates, when the member talks about deceiving this place she should be extremely careful to remember the saying about people who live in glass houses. I look forward to presenting the figures, but I am deeply offended that the member would describe someone of the quality and dedication of the Minister for Education and Training as a man who would deceive this place. I think it is a terrible thing to say about a minister who has done his job with great dignity and great skill. He is, without doubt, the best Minister for Education and Training that this State has had in living memory. For the member to say something like that about Alan Carpenter disappoints me.

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Hon KIM CHANCE: Members of the House may be aware that a range of discussions are ongoing concerning sitting arrangements for 2004, including a discussion about whether the current sessional order should be maintained and, if so, to what extent that should reflect the current arrangements. I do not wish to prejudice in any way future discussion and debate about such a proposition if the House is to entertain the notion of the sessional order being adopted next year. I intend to hold discussions regarding this matter with all parties in the near future. Indeed, I have already had preliminary discussions with the Leader of the Opposition and my own Caucus colleagues with regard to 2004. An alternative to bilateral discussions would be to have a meeting with the House Management Committee, and I will be happy to convene such a meeting if that is the wish of all parties. I make these points purely for members' information. If we can establish a consensus about sitting arrangements for 2004, it will assist the House and members in the timely finalisation of sitting dates for next year.

Engagement of Erinna Ford to Sean Murray

HON JON FORD (Mining and Pastoral) [5.50 pm]: I rise tonight on the request of my daughter. Those members who have children will understand that it is difficult to resist these sorts of requests.

Hon Derrick Tomlinson: May I say we offer you our congratulations.

Hon JON FORD: My wife, Taryn, and I are proud to announce the engagement of our daughter Erinna to Sean Nicholas Murray, the son of Judith Mary Murray and James Ian Murray, who are long time farmers in Western Australia, having been based in Northam for the past 20 years. We wish Erinna and Sean all the best in their future lives together.

Members: Hear, hear!

House adjourned at 5.51 pm

QUESTIONS ON NOTICE

Questions and answers are as supplied to Hansard.

KALGOORLIE CEMENT WORKS, SOIL CONTAMINATION

1259. Hon Robin Chapple to the Minister for Local Government and Regional Development representing the Minister for the Environment

I refer to the Kalgoorlie Cement Works located on the corner of Oberthur and Wilson Streets, in a residential area of Kalgoorlie-Boulder -

(1) Can the minister explain specifically what has been done by the department to investigate or get the owner to investigate the contamination of the soil with oil and diesel at the above property?

(2) If no to (1) why not?

(3) Has the department conducted a detailed thorough investigation at the above site to determine the levels of contamination with oil and diesel in the soil located on the property?

(4) If no to (3) why not?

(5) If yes to (3) how detailed and thorough was that investigation including the results?

(6) Has the department conducted a detailed thorough investigation at the above site to determine the levels of any toxic dust or other toxic materials which potentially exist at the site?

(7) If no to (6) why not?

(8) If yes to (6) how detailed and thorough was that investigation including the results?

(9) Will the department direct the owner of the above property to ensure that no cement dust or other toxic dust/materials can move off site into the adjacent residential property during periods of rainfall?

(10) If no to (9) why not?

Hon TOM STEPHENS replied:

The Minister for the Environment has provided the following response:

(1)-(8) The Department of Environmental Protection (DEP) has identified that there may be potential for soil contamination at the Kalgoorlie Cement Works (KCW) site due to the fact that it has operated as a cement works for some time. To this end, the DEP has made recommendation to the City of Kalgoorlie-Boulder that any new development on the site should be subject to a preliminary site investigation by the developer. It is the City's decision whether or not to take this advice.

The DEP is currently investigating whether it would be appropriate for the department itself to conduct the sampling on site.

(9) No.

(10) The site is no longer a prescribed premise and the DEP no longer has powers to direct the company by way of the registered activity. Given the block is now undeveloped land, it is a matter for the local government authority.

KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD, BREACHES OF LICENCE CONDITIONS

1262. Hon Robin Chapple to the Minister for Local Government and Regional Development representing the Minister for the Environment

I refer to the question on notice number 1039 of August 12 2003 and the answers provided -

(1) Can the Minister give an approximate date in which all of the information requested for part 7 will be provided?

(2) If no to (1) why not?

(3) Can the Minister provide an approximate date when the 'investigation' into Kalgoorlie Consolidated Gold Mines Pty Ltd (KCGM) will be completed?

(4) If no to (3) why not?

(5) Can the Minister explain why the department was concerned with the 'well being or welfare of the community', as opposed to the environment when the licence condition for the level of arsenic was first set given that the 'community' is quite some distance from the Gidgi Roaster?

(6) If no to (5) why not?

(7) Will the DEP prosecute KCGM operator for Barrick Mines and Newmont Mining for breaching licence conditions with arsenic levels at its Gidgi roaster?

(8) If no to (7) why not?

Hon TOM STEPHENS replied:

The Minister for the Environment has provided the following response:

(1) The Department of Environmental Protection (DEP) advised that KCGM has breached licence conditions on one occasion for Fimiston and on two occasions for the Gidji Roaster operations in the last 13 years. KCGM have been prosecuted on each occasion. The DEP could not locate any information relating to breach of licence conditions in the files for the Mt Percy operation, which had been closed since 2001.

(2) Answered by (1).

(3) The investigation has been completed, and a media release was issued on 24 September 2003. The outcome of the investigation is that KCGM did not breach its licence conditions.

(4) Answered by (3).

(5) The definition of environment under the Environmental Protection Act 1986, is "living things, their physical, biological and social surroundings, and interactions between all of these". The licence condition was set for arsenic to control pollution in the environment, which includes the community.

(6) Answered by (5).

(7) No.

(8) KCGM had not breached its licence conditions.

LOONGANA LIME, POLLUTION ODOUR COMPLAINTS

1266. Hon Robin Chapple to the Minister for Local Government and Regional Development representing the Minister for the Environment

I refer to a newspaper article titled 'Complaints about oily odour' which appeared in the *Kalgoorlie Miner* April 12 2003 concerning Loongana Lime operations located near residents living at the Ninga Mia Aboriginal community and residents in the City of Kalgoorlie- Boulder -

(1) Can the Minister state how many complaints have been received from the above operations in the last 3 years?

(2) If no to (1) why not?

(3) Can the Minister state how many complaints have been received from the above operations in the last 9 months of operation?

(4) If no to (3) why not?

(5) Can the Minister explain how many complaints, the specific dates in which they were received in the last 3 years and which complaints have been substantiated?

(6) If no to (5) why not?

(7) Can the Minister explain why a section 73 direction under the *Environmental Protection Act 1986* has not been issued to Loongana Lime operations in relation to any substantiated pollution odour complaints in the last 3 years given that a direction can be given by an inspector who forms the view that 'a condition of pollution is likely to arise or has arisen' to clearly 'prevent that condition of pollution from arising or control or abate that condition if it arises'?

(8) If no to (7) why not?

(9) Can the Minister explain why a pollution abatement notice under section 65 of the *Environmental Protection Act 1986* has not been issued to Loongana Lime operations in relation to any substantiated odour complaints in the last 3 years given that an abatement notice can be issued for any odour which 'has caused or is causing or likely to cause pollution?

(10) If no to (9) why not?

Hon TOM STEPHENS replied:

The Minister for the Environment has provided the following response:

(1) Yes, a total of 50 complaints were received since July 2000.
July 2000 to June 2001 - 4 complaints

July 2001 to June 2002 - 22 complaints
July 2002 to June 2003 - 17 complaints
July 2003 to 16 October 2003 - 7 complaints

(2) Answered by (1).

(3) Yes. From February to 16 October 2003, a total of 24 complaints have been received.

(4) Answered by (3).

(5) Yes. Complaints were received on the following dates in Attachment 1. The table includes an assessment of whether the Department of Environmental Protection (DEP) felt there was a valid complaint. This is not an indication that either the Environmental Protection Act 1986 or licence conditions have been breached. The assessment of the validity of the complaint was based on an assessment of the wind direction to determine the claim that Loongana Lime was the likely cause. [See paper No 1660.]

(6) Answered by (5).

(7) Yes. The odour complaints received by the DEP do not constitute breaches of Loongana Lime's licence conditions, as there is no reliable way of measuring odour at this time and maximum levels for odour emissions cannot be set. Therefore, it would be difficult to prove that the odour being produced at Loongana Lime, resulting in any of the above complaints, constitutes pollution.

The DEP has never received more than 4 complaints on one day from the public regarding Loongana Lime. The majority of complaints received are from a small number of individuals. It is difficult to prove that pollution is likely to arise or has arisen, as it would be difficult to prove that public amenity has been threatened or that the odour is causing environmental degradation.

However, the DEP continues to encourage Loongana Lime to improve its performance to ensure it is taking all practical measures to minimise its emissions.

(8) Answered by (7).

(9) Yes. In order to issue a pollution abatement notice, the DEP would have to be satisfied that the odour emitted from Loongana Lime has caused or is likely to cause pollution. It is difficult to prove that the impacts of odour are to the detriment of the environment or to the detriment of any beneficial use including public amenity.

Again, the DEP is continuing to work on this matter to ensure that Loongana Lime is continually improving its environmental performance.

(10) Answered by (9).

FIMISTON TAILINGS DAMS, INCREASE IN CAPACITY

1267. Hon Robin Chapple to the Parliamentary Secretary representing the Minister for State Development

I refer to a newspaper article dated August 14 2003 titled 'KCGM bid to raise height of tailings dam' concerning the proposal by KCGM (Barrick Mines and Newmont Mining) to raise the height of the tailings dam from 30 metres to 40 metres and increase its capacity by 30 per cent which contains saline, alkaline and cyanide constituents -

(1) Will the Minister quote the specific text of the Departmental 'assessment' made of this proposal?

(2) If no to (1) why not?

(3) Can the Minister state a specific date on which a Departmental 'assessment' had been completed for the above proposal?

(4) If no to (3) why not?

(5) Will the Minister ask or request the Department to urgently investigate in Kalgoorlie all of Mr S. Kean's concerns outlined in accordance with letters dated March 13 2003, May 6 2003 as part of its 'assessment' in providing any advice/approval to any person for the above proposal given that it has been alleged that seepage of mine water and pollutants from their Fimiston I and Fimiston II tailings dams is causing dangerous and unsafe working conditions, significant adverse environmental impacts including contamination of soil/topsoil and damage/death to hundreds of trees/vegetation contrary to the laws of protection under the *Mining Act* and Regulations?

(6) If no to (5) why not?

(7) Will the Minister table any departmental advice/'assessment' of the above proposal provided to any party?

(8) If no to (7) why not?

Hon KEN TRAVERS replied:

I am advised:

(1) The Department has yet to complete its assessment.

(2) A Notice of Intent to raise the height of the Fimiston 1 Tailings Storage Facility was received by the Department on 26/8/2003 and an assessment has not yet been completed.

(3) See answer 2.

(4) Not applicable.

(5) The Department will properly assess the NOI and in doing so will take into account any impact the proposal may or may not have on adjoining nearby land.

(6) Assessment of Notices of Intent is part of the Department's regulatory responsibility.

(7) Any assessment would be based upon information provided to the Department by third parties. Consequently, on this occasion it is considered appropriate for the normal freedom of information process to be followed should any other party seek access to documentation.

(8) N/A.

POLICE, DERBY, STAFF

1271. Hon Robin Chapple to the Minister for Housing and Works representing the Minister for Police and Emergency Services

With regard to staffing levels in Derby -

(1) How many police and staff were employed by the police force in Derby for the periods -

(a) July;
(b) August; and
(c) September 2003

(2) What were their duties?

(3) In relation to (1), what were the budgeted FTE allocations for Derby for 2003-2004?

(4) How many police and staff are currently employed by the police force in Derby and what are their duties?

Hon NICK GRIFFITHS replied:

(1)-(4) The Western Australia Police Service advise that due to operational sensitivities specific information relating to staffing levels of individual police stations will not be provided. District Superintendents deploy available resources within their District to provide the best possible policing service to meet the varying needs of the community.

As at 31 July 2003 there were 132 sworn officers and 7.5 unsworn FTEs in the Kimberley District. At 31 August 2003 there were 134 sworn and 7.5 unsworn FTEs in the Kimberley District and at 30 September 2003 there were 136 sworn and 7.7 unsworn FTEs in the Kimberley District.

The duties undertaken by sworn officers include community support, crime prevention and public order; emergency management and co-ordination; traffic management and road safety; response to and investigation of offences; and services to the judicial process. Unsworn officers contribute in the achievement of these initiatives by providing administrative support and quality customer service.

PINETEC LTD, ALLOCATION OF PINE RESOURCES, COMPETITIVE PROCESS

1275. Hon Barry House to the Minister for Agriculture, Forestry and Fisheries

I refer the Minister to his answer to Question without Notice No. 1242 referring to a competitive process by which public pine resources will be allocated to Pinetec Ltd, and ask -

(1) When was the competitive process undertaken?

(2) How many firms applied for the public pine resources?

(3) On what basis was Pinetec chosen to obtain the timber ahead of other interested parties?

(4) What is the total volume of public pine timber made available through the competitive process?

(5) Will the Minister table relevant documents showing the process and assessment by which Pinetec was chosen?

(6) If not, why not?

Hon KIM CHANCE replied:

(1)-(4) Pinetec have participated in a number of competitive processes and currently hold or are in the process of acquiring the following contracts:

Contract No. 2353 - 35,000 m3 pa - Originally Awarded on 1 July 1994

Contract No. 2363 - 5,000 m3 pa - Originally Awarded on 1 July 1994 (Assigned from Western Case Joinery Works Pty Ltd to Pinetec on 21 December 1999, expiring 30 June 2004)

Contract 2465 - 20,000 m3 pa - Assigned from Dodd and Dodd Pty Ltd to Pinetec on 23 February 1999 to expire on 31 December 2006)

Contract No. RFP 2631 - 20,000 m3 pa - Originally Awarded 2001

Contract No. 2354 - 16,000 m3 pa - To be assigned from Pempine, 2003

With reference to its proposed acquisition of the Pempine contract the Administrator for Pempine Ltd held this contract. The Administrator advertised for the sale of Pempine timber interests to recover debts owing to a number of creditors, including the Forest Products Commission. The Forest Products Commission indicated that important considerations of the assignment are the capability of the assignee to undertake the contract, the recovery of current debt to the Commission and other creditors and regional employment and industry development benefits arising from the assignment.

The Administrator had two strong interests in assignment and pursued these parties for firm offers. Two offers were received.

The Administrator recommended Pinetec's offer as it provided for a significantly greater recovery of debt. The Forest Products Commission preferred Pinetec's offer as it recovered all its debt and did not seek to vary the quality of timber (16,000 m3 pa) provided under the contract.

(5)-(6) No, the process was conducted by the Administrator who brought offers to the Forest Products Commission, recommending that Pinetec's offer be accepted. The Forest Products Commission reviewed and evaluated the offers based on criteria such as recovery of debt, capacity to operate a business, impact on the timber industry and proponent conditions. The Commission then agreed that Pinetec be the preferred proponent.

BARROW ISLAND, GORGON PROJECT, CARBON SEQUESTRATION PROGRAM, MONITORING

1281. Hon Robin Chapple to the Parliamentary Secretary representing the Minister for State Development

With regard to Chevron-Texaco's proposed carbon sequestration programme on Barrow Island, I ask -

(1) Does the Minister accept that some form of monitoring of the saline aquifer will be required in order to determine the behaviour of the re-injected CO_2?

(2) Is the Minister aware that his own Department has reported in 'Petroleum in Western Australia (October 2003) that the use of time-lapse (or 4-D) seismic surveys is the most effective method currently available for such monitoring?

(3) Can the Minister describe the physical implications of such a monitoring programme for the northern half of Barrow Island?

(4) Will monitoring need to be carried out during the life of the sequestration programme, and will monitoring be required after re-injection has been completed?

(5) If yes to (4), how long after re-injection has been completed will the monitoring need to be carried out?

(6) Will this form of monitoring necessitate a new network of tracks across the northern half of Barrow Island which will need to be maintained as long as this monitoring programme is required?

Hon KEN TRAVERS replied:

I am advised:

(1) Yes. Monitoring will be an essential part of the CO2 sequestration project, especially during early years, to provide input to predictive assessments of migration behaviour over the life of the project, and into the future.

(2) Yes. Time-lapse seismic surveys are tools used in the industry to track gas movements in reservoirs. Their suitability for this project is the subject of on-going reviews into the most effective methods of monitoring. Since displacement rates will be very slow (measured in a few 10's of meters per year) and seismic resolution accuracy is limited, durations between surveys will be in terms of years to allow displacement distances to be observable.

(3) Modern surveying practices are expected to have minimal physical implications on the island. The northern injection site is subject to further detailed sub-surface geological investigations involving assessment of monitoring capabilities in this geological environment. Investigations may result in a decision to relocate injection to a point distant from the island to facilitate more effective marine-based monitoring programs and/or improved injection capacity.

The independent study recommended that offshore multilaterals drilled from an onshore location with a reach of 3 km could allow the use of lower cost marine surveys to be recorded over the injection site and produce the best quality monitoring data that can be collected.

(4)-(5) The duration and frequency for monitoring surveys are under review. Monitoring during the first five to ten years of injection is the most important time in establishing trends of gas movement. Once such trends have been established sophisticated computer simulation programs can be applied to predict future migration paths, reducing, and ultimately removing, the need for intensive monitoring. Other surveillance methodologies will become more effective in later years, including the use of monitor wells.

(6) No. Land based seismic monitoring programs will not require a new network of tracks. Survey methods are non invasive, and would be closely supervised by Government officers.

BARROW ISLAND, GORGON PROJECT, ENVIRONMENTAL EVALUATION

1282. Hon Robin Chapple to the Minister for Local Government and Regional Development representing the Minister for the Environment

With regard to the Chevon Texaco development of Barrow Island as a potential industry site -

(1) On what dates did the Minister, EPA and DEP become aware of such proposals and how was this advice given and by whom?

(2) If such advice was by letter or email in relation to (1), will the Minister table such documents?

(3) On what date did the DEP/EPA advise the Minister of Chevron Texaco's desire to use an area of Barrow Island as an industry site?

(4) On what date did the State Government request the EPA to conduct a strategic environmental evaluation of the proposal?

(5) On what date did the State Government request the Conservation Commission of WA to advise the Government on nature conservation matters relating to the Barrow nature reserve?

Hon TOM STEPHENS replied:

The Minister for the Environment has provided the following response:

(1) The Government agreed in October 2001 to further consider, after environmental and socio-economic evaluation, the potential use of Barrow Island for the Gorgon Gas project. The Department of Environmental Protection (DEP) became aware of the current proposal by Chevron Texaco for the use of Barrow Island on 10 December 2001 via an oral briefing at officer level from Chevron Texaco.

Department records indicate that the DEP first became aware of Barrow Island as a potential option for the location of a gas development in September 1995, when staff of WAPET briefed the EPA Chairman and Departmental officers on an earlier version of the Gorgon proposal.

(2) Answered by (1). The first advice to the Department was via an oral briefing.

(3) Formal advice of the project was transmitted from the DEP to my office in the form of a copy of the EPA's regular newspaper advertisement on 15 July 2002, as per standard practice.

(4) I requested the EPA to investigate the issues associated with the potential use of Barrow Island on 9 July 2002, following a request dated 24 May 2002 from the Minister for State Development for an investigation of environmental issues.

(5) At the time of Government agreement to further consider the potential use of Barrow Island for the Gorgon gas project in October 2001, separate advice from the Conservation Commission was sought, recognising its role as the vesting authority for the Class A nature reserve.

BARROW ISLAND, GORGON PROJECT, DATE OF DEVELOPMENT ADVICE

1283. Hon Robin Chapple to the Parliamentary Secretary representing the Minister for State Development

With regard to the Ministers Press release of June 28 2002 'Gorgon gas development possibility' -

(1) On what date was the Office of Major projects first advised of the desire of Chevron Texaco to develop Barrow Island as a potential site and how was this advice given?

(2) If by letter or email in relation to (1), will the Minister table such documents?

(3) On what date did the Department advise the Minister of Chevron Texaco's desire to use an area of Barrow Island?

(4) On what date was the Premier advised of Chevron Texaco's desire to use an area of Barrow Island?

(5) On what date did the Minister decide to examine the possibility of Chevron Texaco's desire to use an area of Barrow Island?

(6) On what date did the West Australian Government decide that Chevron Texaco's desire to use an area of Barrow Island should be examined?

(7) Who advised the Government of efforts to harness the large Gorgon gas reserves, including a possible development scenario using a restricted area of the Barrow Island 'A' Class Nature Reserve and when?

(8) On what date did the State Government request the Environmental Protection Authority to conduct a strategic environmental evaluation of the proposal?

(9) On what date did the State Government request the Conservation Commission of Western Australia to advise the Government on nature conservation matters relating to the Barrow nature reserve?

(10) On what date did the State Government request the Department of Mineral and Petroleum Resources to report to the Minister for State Development on the social and economic aspects of such development?

Hon KEN TRAVERS replied:

I am advised:

(1) The Gorgon Joint Venture advised the (then) Department of Resources Development on 2 May 2001.

(2) Not applicable.

(3) 2 May 2001.

(4) The Minister formally advised the Premier in advance of Cabinet's consideration on 15 October 2001.

(5) Mid 2001.

(6) 15 October 2001.

(7) The Minister for State Development, 15 October 2001.

(8)-(10) Upon the relevant Department receiving notice of the Cabinet Decision of 15 October 2001.

RAILWAYS, SECURITY PERSONNEL, NUMBER

1286. Hon Alan Cadby to the Parliamentary Secretary representing the Minister for Planning and Infrastructure

Will the Minister please advise the following -

(1) What was the total number of all security personnel, including police officers, transit guards, private guards and any other security personnel, working on Perth's metropolitan train network as at February 10 2001?

(2) What was the total number of all security personnel, including police officers, transit guards, private guards and any other security personnel, working on Perth's metropolitan train network as at September 30 2003?

(3) What was the total number of sworn police officers working on Perth's metropolitan train network as at February 10 2001?

(4) What was the total number of sworn police officers working on Perth's metropolitan train network as at September 30 2003?

(5) What was the total number of transit guards, or equivalent staff, working on Perth's metropolitan train network as at February 10 2001?

(6) What was the total number of transit guards, or equivalent staff, working on Perth's metropolitan train network as at September 30 2003?

(7) What was the total number of private guards working on Perth's metropolitan train network as at February 10 2001?

(8) What was the total number of private guards working on Perth's metropolitan train network as at September 30 2003?

(9) What was the total number of other security personnel, not referred to in Questions 3-8, working on Perth's metropolitan train network as at February 10 2001?

(10) What was the total number of other security personnel, not referred to in Questions 3-8, working on Perth's metropolitan train network as at September 30 2003?

Hon KEN TRAVERS replied:

(1) 129, excluding WA Police Service personnel. The Minister for Police should be requested to provide details in regard to her portfolio.

(2) 193, excluding WA Police Service personnel. The Minister for Police should be requested to provide details in regard to her portfolio.

(3)-(4) The Minister for Police should be requested to provide details in regard to her (4) portfolio.

(5) 129

(6) 193

(7) 107

(8) 18

(9) 1 Security Manager

(10) 3; 1 Manager Customer Service and Security and 2 Transit Guard Managers.

TOURISM, REGIONAL INVESTMENT FUND, INFRASTRUCTURE FUNDED

1291. Hon Norman Moore to the Minister for Local Government and Regional Development

Which tourism infrastructure projects have been funded by the Regional Investment Fund?

Hon TOM STEPHENS replied:

The Regional Investment Fund (RIF) was established by the State Government to provide $75 million over four years to assist with the economic and social development of regional Western Australia or improve the access by regional communities to services.

Funding is available through three financial assistance schemes. One of the schemes, the Regional Infrastructure Funding Program (RIFP), which is administered by the Department of Local Government and Regional Development, provides financial assistance for capital infrastructure projects which will assist in attracting investment and increasing jobs in regional areas or improving the access of regional communities to services. The majority of projects that have been funded through RIFP have a tourism component, provide tourism-related activities, or provide opportunities for tourism development.

The RIF has funded tourism-related projects through two other schemes, the Western Australian Regional Initiatives Scheme (WARIS) and the Regional Development Scheme (RDS). These two schemes do not in the main fund projects that involve development of infrastructure, and can fund projects such as festivals and other events, feasibility studies and regional and local marketing programs. Nonetheless, there have been some occasions where the WARIS and RDS grants have contributed to tourism projects directly from which related infrastructure has been developed.

Projects funded through the Regional Infrastructure Funding Program are as follows:

SUCCESSFUL RIFP APPLICANTS – Round 1 2002/2003

Organisation	Region	Description of Project	Amount $ (ex GST)
Goldfields-Esperance Development Commission	Goldfields/Esperance	Goldfields North Heritage Trail between Coolgardie and Laverton	170,000
Denmark Education and Innovation Centre	Goldfields/Esperance	Sustainable living project	100,000
Ongerup Community Development Inc	Goldfields/Esperance	Developing and constructing a Malleefowl Visitor and Interpretive Centre in Ongerup	500,000
Shire of Derby/West Kimberley	Kimberley	Second stage of reconstruction of Derby Airport runway	600,000
City of Geraldton	Mid-West	Geraldton CBD and foreshore redevelopment	1,030,000
Shire of Busselton	South-West	Construction of the Busselton Jetty Underwater Observatory	500,000
Motoring South West Inc	South-West	Upgrade and extension of sprint circuit and the Collie Motorplex	750,000
Town of Northam	Wheatbelt	Redevelopment of the main street and CBD of Northam	350,000
Total round 1			$4,500,000

SUCCESSFUL RIFP APPLICANTS – Round 2 2003/04

Organisation	Region	Description of Project	Amount $ (ex GST)
Shire of Dundas	Goldfields/Esperance	Dundas Woodlands Discovery Trail - the provision of the infrastructure component of the trail, an interpretive drive trail between Hyden and Norseman	177,527
Shire of Leonora	Goldfields/Esperance	To assist with Stages 3 to 5 of the upgrade of the main street in Leonora, Tower Street. Covers the restoration of shop fronts and facades	109,350

Shire of Kojonup	Great Southern	Kojonup Tourist Railway - develop a tourist railway for a distance of 14kms from Kojonup to Farrar Reserve	86,000
Shire of Broome	Kimberley	Construction and erection of transportable stadium seating with a capacity for approximately 2,500 people, initially to be used for an international beach volley ball tournament in September 2003, 2004.	Up to 500,000
Broome Port Authority	Kimberley	Extension to Broome Wharf	2,500,000
Fairbridge Western Australia	Peel	To assist with the following three components of the $10.6M Fairbridge Redevelopment Program ; Conservation and renovation of Exeter Cottage including addition of Visitor Interpretation Centre New multifunctional facility and environmental centre Conservation and renovation of Belfast Cottage	1,200,000
Shire of Roebourne	Pilbara	Development of the historic town of Cossack: assist with upgrading services and renovating buildings.	1,300,000
Shire of Donnybrook-Balingup	South-West	Donnybrook Pedestrian Suspension Bridge Project: to assist with constructing the bridge which is a key component of the Preston River Community Park Development project.	150,000
Shire of Collie	South-West	Collie Entrance Tourism Precinct including Collie Visitor Centre, establishment of an Art Gallery and Cultural Centre, improving parking facilities, toilet, park, barbecue facilities and entrance precinct.	500,000
Gravity Discovery Centre Foundation Inc	Wheatbelt	To assist with the following three construction components of the Gravity Discovery Centre: Cosmology Gallery Gravity Glass Elevator Disabled access walkway	500,000
Total round 2			$8,292,877

SOUTH WEST FOREST, AREA BURNT IN WILDFIRES

1293. Hon Christine Sharp to the Minister for Local Government and Regional Development representing the Minister for the Environment

Further to Question on Notice No. 1142 of 2003, for each of the last 10 years -

(1) What was the area burnt in wildfires in the Department of Conservation's south west forest region?

(2) Does this figure include back burning?

(3) If not, what additional area was burnt in back burning?

(4) If yes, what area does the Department estimate was burnt by -

(a) the wildfires; and
(b) back burning to control the wildfires?

Hon TOM STEPHENS replied:

The Minister for the Environment provided the following response:

(1) The area burnt in wildfires in the Department's three south-west forest regions for each of the past 10 years was:

Year	Area of Wildfires (hectares)
2002/03	139,744
2001/02	18,989
2000/01	14,647
1999/00	10,866
1998/99	9,148
1997/98	76,798
1996/97	18,443
1995/96	10,101
1994/95	29,051
1993/94	37,346

These figures are for fires where the Department was the lead combat agency and include lands managed by the Department and other lands. The figure of 139,744 hectares for the 2002/03 year includes approximately 126,000 hectares of CALM-managed lands.

(2) Yes

(3) Not applicable.

(4) It is impossible to differentiate the areas burnt by wildfires and the area burnt as part of the back burn applied to control the main fire. The Department does not keep any records of the area burnt by the back burns. It is estimated that the proportion of wildfire areas that is the result of the back burns will vary each year from about five to ten percent of the total areas.

PASTORAL LEASES, AMENDMENTS TO EXCLUSION DOCUMENT

1296. Hon George Cash to the Parliamentary Secretary representing the Minister for Planning and Infrastructure

What areas, if any, have been amended since the publication of the original Pastoral Lease Exclusion document in 2002?

Hon KEN TRAVERS replied:

No agreement proposals under the exclusion process have been presented to the Minister for Planning and Infrastructure for approval under Section 143(6f)(c) of the Land Administration Act 1997 to date.

ROADS, LEACH HIGHWAY-STOCK ROAD, UPGRADING

1297. Hon Simon O'Brien to the Parliamentary Secretary representing the Minister for Planning and Infrastructure

Given the Government's intention to delete the Fremantle Eastern Bypass from the Metropolitan Region Scheme and in terms of the Minister's six point plan, can the Minister advise -

(1) What works are to be carried out to upgrade the Leach Highway and Stock Road intersection?

(2) What will be the cost of these works?

(3) Will the upgrade be completed in one or more stages?

(4) What is the timeframe for these works?

(5) Has an analysis been undertaken in terms of compensation for the affected businesses and/or residents in the vicinity?

(6) If so, can the Minister table the analysis?

(7) What compensation is anticipated to be paid for those businesses and/or residents in the vicinity?

Hon KEN TRAVERS replied:

Metropolitan Region Scheme Amendment No.1055/33 (Fremantle Eastern Bypass) is currently being progressed by the Western Australian Planning Commission. While the upgrading of the Leach Highway/Stock Road intersection to some form of grade separation has been suggested, there is no firm proposal for this intersection at this time.

BARROW ISLAND, GORGON PROJECT, ENVIRONMENTAL APPROVAL

1306. Hon Norman Moore to the Leader of the House representing the Premier

I refer the Premier to the decision to give in-principle approval for the use of Barrow Island for the development of the Gorgon gas field, and particularly to the press release statement that the approval was conditional on the joint venture partners meeting State and Commonwealth environmental safeguards, and ask -

If the company cannot meet the demands set by environmental authorities and thus fails to receive environmental approval, will the Government still allow the development to proceed on Barrow Island?

Hon KIM CHANCE replied:

The Government has every confidence that the joint venture partners will meet the environmental safeguards.

INDUSTRIAL FACILITIES, LICENCES TO DISCHARGE WASTE INTO MARINE ENVIRONMENT

1315. Hon Jim Scott to the Minister for Local Government and Regional Development representing the Minister for the Environment

Further to question on notice No. 1056, submitted on August 12 2003 and partially answered on September 4 2003 -

(1) Will the Minister now table information on the industrial facilities that are licensed to discharge waste into either the Swan or Canning River systems and what substances and what quantities each facility is permitted to discharge into the river environment?

(2) Is the delay in tabling this information part of the Government's commitment to open and accountable Government?

Hon TOM STEPHENS replied:

The Minister for the Environment has provided the following response:

(1) The information is not yet ready to be tabled. The Department of Environment has advised me that the information you have asked for will be collated by 14 November 2003 and I will then forward this directly to you.

(2) No. The delay in producing the information is due to the large numbers of premises potentially involved, the in-depth research required by Department of Environment officers and the complexity in collating the information accurately.

GOVERNMENT CONTRACTS, PANEL CONTRACTS, NUMBER AND COST

1324. Hon Ray Halligan to the Minister for Heritage

For each agency under the Minister's control, can the Minister please advise -

(1) How many panel contracts for goods and services each agency operates?

(2) For each panel contract -

(a) how many organisations appear on the panel;

(b) how many organisations have been successful in securing contracts under the panel system in the last 18 months as a result of being on the panel;

(c) how many of these were appointed directly from the panel;

(d) how many were required to re-tender or quote for the work offered;

(e) how long did it take the agency to assess organisations seeking to join the panel; and

(f) what is the cost, direct and indirect, of establishing and managing the panel?

Hon TOM STEPHENS replied:

(1) Nil

(2) N/A

GOVERNMENT CONTRACTS, PANEL CONTRACTS, NUMBER AND COST

1331. Hon Ray Halligan to the Leader of the House representing the Premier

For each agency under the Premier's control, can the Premier please advise -

(1) How many panel contracts for goods and services each agency operates?

(2) For each panel contract -

(a) how many organisations appear on the panel;

(b) how many organisations have been successful in securing contracts under the panel system in the last 18 months as a result of being on the panel;

(c) how many of these were appointed directly from the panel;

(d) how many were required to re-tender or quote for the work offered;

(e) how long did it take the agency to assess organisations seeking to join the panel; and

(f) what is the cost, direct and indirect, of establishing and managing the panel?

Hon KIM CHANCE replied:

I am advised that :

Department of the Premier and Cabinet

(1)-(2) At 23 October 2003, the Department of the Premier and Cabinet operated the following agency specific panel contracts:

Panel contract for the provision of preliminary judging services for the Premier's Awards for Excellence in Public Sector Management. Three organisations were appointed to this panel following an assessment of quotations between 21 July and 28 July 2003. To satisfy the requirements of the preliminary judging process, all contractors were engaged to provide services for the 2003 Premier's Awards. There were no direct advertising costs for establishing this panel and indirect costs to the department and contractors are considered to be negligible.

Panel contract for the provision of information technology support services. Three organisations were appointed to this panel following an assessment of tenders between 24 September and 26 November 1998. From December 2001, only two contractors remained on the panel contract and both were successful in

securing work during the previous 18 months as a result of the assessed skills, expertise and availability of their personnel. This contract was established by the then Department of Contract and Management Services and it is expected that direct establishment costs were limited to tender advertising and tender evaluation consultancy services. Indirect costs cannot specifically be identified but would include personnel hours relating to the preparation of tender submissions by tenderers and, in respect of the public sector, contract planning, formation and management (including the administration of price adjustments, insurances, and contract extensions). It is not intended to replace this contractual arrangement when it expires in December 2003.

Panel contract for the supply, installation, support and maintenance of Electorate Information Management Systems. Three organisations were initially appointed to this panel following an assessment of tenders between 25 August and 22 September 2000. From January 2001, only two contractors remained on the panel and both have continued to provide services in the previous 18 months. This contract was established by the then Department of Contract and Management Services and it is expected that direct establishment costs were limited to tender advertising. Indirect costs cannot specifically be identified but would include personnel hours relating to the preparation of tender submissions by tenderers and, in respect of the public sector, contract planning, formation and management (including the administration of price adjustments, insurances, and contract extensions).

Anti-Corruption Commission

The Anti-Corruption Commission has provided the following information:

(1) No panel contracts have been set up by the Commission.

(2) Not applicable.

Governor's Establishment

(1)-(2) Not applicable to the Governor's Establishment.

Office of the Public Sector Standards Commissioner

The Commissioner for Public Sector Standards advises as follows:

(1) Six (6)

(2) See table below.

	Temporary Employment Panel	Stationary Panel	Employee Assistance Program	Executive Coaching Panel	Independent Reviewer Panel	Independent Examiner Panel
(a)	2	2	2	2	12	10
(b)	2	2	1	Nil	Contract commenced 1 October 2003. No organisations appointed as yet.	1
(c)	2	2	1	N/A	Partial exemption was sought from the buying rules for this panel. Allocation of assessment for each panel member is to be done in a systematic manner, with jobs equally allocated to panel members on a rotational basis.	Partial exemption was sought from the buying rules for this panel. Allocation of assessment for each panel member is to be done in a systematic manner, with jobs equally allocated to panel members on a rotational basis.
(d)	Nil	Nil	Nil	N/A	Partial exemption was sought from the buying rules for this panel. Allocation of assessment for each panel member is to be done in a systematic manner, with jobs equally allocated to panel members on a rotational basis.	Partial exemption was sought from the buying rules for this panel. Allocation of assessment for each panel member is to be done in a systematic manner, with jobs equally allocated to panel members on a rotational basis.
(e)	10 days	12 days	8 days	13 days	28 days	28 days
(f)	No direct cost. Indirect cost cannot be determined.	No direct cost. Indirect cost cannot be determined.	No direct cost. Indirect cost cannot be determined.	No direct cost. Indirect cost cannot be determined.	Direct cost to the Office of the Public Sector Standards Commissioner to establish this panel was $1650. Indirect cost cannot be determined.	Direct cost to the Office of the Public Sector Standards Commissioner to establish this panel was $1650. Indirect cost cannot be determined.

GOVERNMENT CONTRACTS, PANEL CONTRACTS, NUMBER AND COST

1332. Hon Ray Halligan to the Leader of the House representing the Minister for Public Sector Management

For each agency under the Minister's control, can the Minister please advise -

(1) How many panel contracts for goods and services each agency operates?

(2) For each panel contract -

(a) how many organisations appear on the panel;

(b) how many organisations have been successful in securing contracts under the panel system in the last 18 months as a result of being on the panel;

(c) how many of these were appointed directly from the panel;

(d) how many were required to re-tender or quote for the work offered;

(e) how long did it take the agency to assess organisations seeking to join the panel; and

(f) what is the cost, direct and indirect, of establishing and managing the panel?

Hon KIM CHANCE replied:

Please refer to the response provided by the Premier for question on notice 1331 of 23rd October 2003.

GOVERNMENT CONTRACTS, PANEL CONTRACTS, NUMBER AND COST

1333. Hon Ray Halligan to the Leader of the House representing the Minister for Federal Affairs

For each agency under the Minister's control, can the Minister please advise -

(1) How many panel contracts for goods and services each agency operates?

(2) For each panel contract -

(a) how many organisations appear on the panel;

(b) how many organisations have been successful in securing contracts under the panel system in the last 18 months as a result of being on the panel;

(c) how many of these were appointed directly from the panel;

(d) how many were required to re-tender or quote for the work offered;

(e) how long did it take the agency to assess organisations seeking to join the panel; and

(f) what is the cost, direct and indirect, of establishing and managing the panel?

Hon KIM CHANCE replied:

Please refer to the response provided by the Premier for question on notice 1331 of 23rd October 2003.

GOVERNMENT CONTRACTS, PANEL CONTRACTS, NUMBER AND COST

1334. Hon Ray Halligan to the Leader of the House representing the Minister for Science

For each agency under the Minister's control, can the Minister please advise -

(1) How many panel contracts for goods and services each agency operates?

(2) For each panel contract -

(a) how many organisations appear on the panel;

(b) how many organisations have been successful in securing contracts under the panel system in the last 18 months as a result of being on the panel;

(c) how many of these were appointed directly from the panel;

(d) how many were required to re-tender or quote for the work offered;

(e) how long did it take the agency to assess organisations seeking to join the panel; and

(f) what is the cost, direct and indirect, of establishing and managing the panel?

Hon KIM CHANCE replied:

Please refer to the response provided by the Premier for question on notice 1331 of 23rd October 2003.

GOVERNMENT CONTRACTS, PANEL CONTRACTS, NUMBER AND COST

1335. Hon Ray Halligan to the Leader of the House representing the Minister for Citizenship and Multicultural Interests

For each agency under the Minister's control, can the Minister please advise -

(1) How many panel contracts for goods and services each agency operates?

(2) For each panel contract -

(a) how many organisations appear on the panel;

(b) how many organisations have been successful in securing contracts under the panel system in the last 18 months as a result of being on the panel;

(c) how many of these were appointed directly from the panel;

(d) how many were required to re-tender or quote for the work offered;

(e) how long did it take the agency to assess organisations seeking to join the panel; and

(f) what is the cost, direct and indirect, of establishing and managing the panel?

Hon KIM CHANCE replied:

Please refer to the response provided by the Premier for question on notice 1331 of 23rd October 2003.

SHIRE OF WYNDHAM-EAST KIMBERLEY, RESERVE 41812, LAKESIDE RESORT DEVELOPMENT

1365. Hon Robin Chapple to the Minister for Local Government and Regional Development

With regard to the Shire of Wyndham East Kimberley (SWEK), I ask -

(1) Has (SWEK) received rent from Lakeside Resort for operations on UCL (Proposed Special Foreshore Reserve 41812 extension) under an invalid lease between Lakeside Resort and SWEK?

(2) Has SWEK made a retrospective approval of an illegal development by Lakeside Resort on proposed Reserve 41812 extension?

(3) Is there a provision within the Town Planning Scheme No. 7 (Kununurra and environs) for retrospective approvals of illegal developments?

(4) If no to (3), what actions will the Minister for Local Government take to ensure that this inappropriate decision made by SWEK is reversed and made legal?

(5) Has SWEK provided support for illegal landclearing on Reserves 41812 and 715 by Darren Spackman?

(6) Can the Minister detail the reasons why SWEK refuses to fulfil its obligations under the Ord River Waterways Management Group (ORWMG) Memorandum of Understanding (MoU) signed and endorsed by State Agencies and key community representatives, with respect to illegal land clearing and illegal developments on Reserves 41812 and 715?

(7) Can the Minister for Local Government detail the reasons why SWEK has ignored its obligations under ORWMG MoU and gone against statutory legislation under the *Aboriginal Heritage Act 1972*, by giving retrospective approvals of Lakeside Development without the appropriate heritage clearances?

(8) Has SWEK developed a lease for Darren Spackman on part of Reserve 41812 and 715 outside of due process and without the approval of management authorities in the Department of Environment and Department for Planning and Infrastructure (previously Department of Land Administration)?

Hon TOM STEPHENS replied:

I will be pleased to forward the Member's question to the Shire of Wyndham-East Kimberley and will request that the Shire reply directly to the Member.

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